

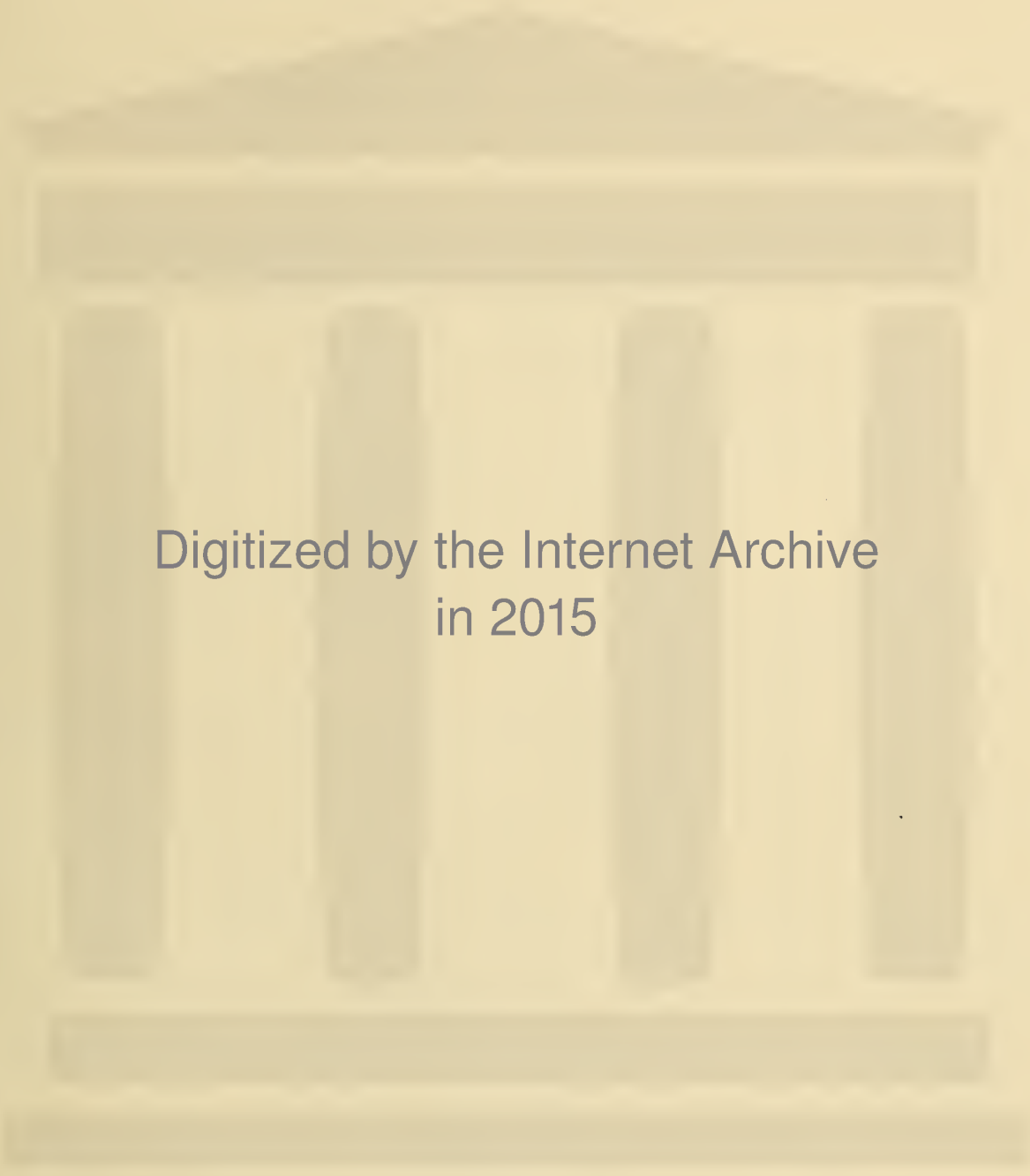
MC GILL 1845



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## AFFAIRS OF M'GILL COLLEGE.

COPIES OF COMMUNICATIONS that have passed since the last Session of the Provincial Parliament (29th March, 1845,) between the Executive Government, the Royal Institution for the advancement of Learning, and the Governors of M'Gill College, on the subject of said College; transmitted to the Legislative Assembly on the 1st May, 1846, by Message from His Excellency the Governor General, in reply to an Address of the 14th April, 1846.

*Letter from the Secretary of the Royal Institution to the Provincial Secretary, with one enclosure.*

Royal Institution Office,  
Montreal, 25th June, 1845.

Sir,

I have the honor, by direction of the Board of the Royal Institution, to enclose to you the accompanying copy of a Minute passed at a meeting of the Board yesterday, for the information of His Excellency the Governor General.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed,) R. R. BURRAGE,  
Secretary R. I.

The Honorable  
D. Daly, M. P. P.  
Civil Secretary,  
Montreal.

(Enclosure.)

Minute read and adopted at a Meeting of the Board of the Royal Institution, on 24th June, 1845.

Upon entering on the discharge of their official duties, the attention of the Members of the present Board of the Royal Institution for the advancement of Learning has been forcibly and painfully drawn to the serious differences, which have for a long time past existed between their predecessors and a portion of the Governors of M'Gill College; and to the embarrassments and difficulties, of various kinds, which now environ an Establishment, originating in the liberal views of an enlightened Individual, and benevolently designed by him to communicate the blessing of sound Instruction to the Youth of this Province.

The difference between the two Corporate Bodies relate, 1st. To the rights and powers of the Royal Institution, as the legal owners of the property devised to them by the late Honorable James M'Gill, and 2ndly, To the nature of the duties and to the extent of the powers of the Royal Institution in their character of Visitors of M'Gill College, under the Charter.

On both these leading points, opposite, and apparently irreconcilable, pretensions have been advanced by the contending parties; and, when the present Members of the Royal Institution consider, on the one side, the high professional reputation of the two gentlemen, by whose legal opinion their predecessors

seem to have been mainly guided, and, on the other hand, the exalted station in the Law of the two Governors of M'Gill College, who have dissented so widely from that opinion, they are disposed to shrink from the arduous and responsible task of examining the arguments, and balancing the merits of men, whose superiority over themselves, both in natural talents and acquired attainments, they most readily acknowledge; unhappily, however, it is not permitted them to indulge their private feelings on this occasion, since a decision upon their duties and powers must necessarily precede any attempt to carry them into operation: constrained them to enter on this much to be lamented controversy, the only material qualification which the present Members of the Board of the Royal Institution presume to believe they can bring to the investigation of it, is a spirit devoid of any party bias, and alone solicitous for the discovery of certainty and truth.

The argument of the Governors of M'Gill College goes so far, as to question "the legal existence" of the Royal Institution, assuming, that "the objects for which it was created, are swept from under it;" and that "the Act, on which its powers depended, is now a dead letter:" But without insisting positively, that the Royal Institution had thus become altogether a "caput mortuum," the Governors contend "totis viribus suis," that "the powers of the Royal Institution of holding the lands or funds devised and bequeathed by Mr. M'Gill was merely temporary; and that the occasion for it ceased when there was a proper corporation, to which they could transfer them."

From the necessity, however, of going more largely into this part of the dispute, the present Members of the Board of the Royal Institution rejoiced to find themselves relieved by the 8th Victoria, cap. 78, which distinctly recognizes a right of ownership in the Royal Institution over the property devised to them by Mr. M'Gill; and, therefore, reserving the exposition of their ideas respecting the nature of their powers, as owners, to a future part of this Minute, they will now pass to the "vexata quæstio" of the nature of their duties, and the extent of their powers, as Visitors of M'Gill College.

In commenting on this subject, the Governors of the College observe, in their Minute of the 15th July, 1843, that, "the Charter says simply, that the Royal Institution shall be Visitors: and that it is impossible that in any case the authority could be given in more naked and general terms;" and they then deduce from this nakedness of terms the conclusion, that the Royal Institution "have such controlling powers as the term Visitor generally imports, and nothing more;" evidently implying, that other terms of creation were necessary to confer those large visitatorial powers, for which the Royal Institu-



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tion contend. But with all due deference, it is urged, that the expression, "sit visitor," is sufficient to constitute a perpetual and general Visitor; and it is confidently asserted, under the sanction of cases decided in Westminster Hall, that the appointment of a General Visitor, without restraint as to any particular instance, invests the person so constituted with all incidental powers. Where the intention is to limit, or restrain, the visitatorial power, clauses to that effect are invariably inserted in the instrument creating the Visitor; and in the absence of such restraining clauses, the largest and most ample powers, recognized by the Common Law, belong to the Visitor; so that it may be truly said, the more naked the terms of creation, the more extensive are the powers delegated by it.

Continuing their train of reasoning on this topic,—the visitatorial character of the Royal Institution,—the Governors proceed to say, "if in the numerous cases in which the Queen's Bench in England are Visitors of Corporations, because no Visitor has been specially provided," &c. &c. and the present Members of the Royal Institution candidly acknowledge, that they cannot exactly comprehend the meaning of this paragraph; for they apprehend, that it is an undoubted principle of English Law, that the Queen's Bench has not, and cannot by possibility have, any visitatorial power over Eleemosynary Corporations; and that, wherever the right of visiting these devolves on the Sovereign, either as Founder, or in consequence of the failure of the Heirs or Assignees of the Founder, the visitatorial power must be exercised in the High Court of Chancery, or by Commissioners specially appointed for that purpose. Over Civil Corporations it is, indeed, sometimes said, that the Queen's Bench are the Visitors; but it has been justly remarked, that, even in respect of them, the term Visitor is not properly applicable to the Queen's Bench; because the power exercised by the Queen's Bench over Civil Corporations wants two of the essential properties of the visitatorial office, viz., 1st, the power of acting upon their own motion, and 2dly, the power of pronouncing a final judgment, irreversible by any other tribunal. Were the character, however, of the Queen's Bench, as Visitors of Civil Corporations, ever so perfect, the distinctions between Civil and Eleemosynary Corporations are so numerous, that a practice relating to the one could hardly ever form a precedent for the other; and the Members of the Royal Institution are obliged, therefore, to repeat the expression of their inability to understand the precise view with which the Governors of M'Gill College, have adverted to the visitatorial powers of the Queen's Bench, as bearing in any manner upon those of the Royal Institution.

It would be easy to enlarge upon this branch of the subject; but, as the object of this Minute is not to dilate, but to condense, the present Members of the Royal Institution will content themselves with recording, upon the mere strength of the foregoing observations, their entire dissent from the opinions of the Governors of M'Gill College respecting the duties and powers of the Royal Institution under the two heads in which they have here considered them.

Whilst the Governors of M'Gill College strenuously deny, as has been shewn, all right of Ownership in the Royal Institution, the latter have asserted that right in its largest extent; and the course of their proceedings plainly proves, that they considered themselves as holding the Trust under Mr. M'Gill's Will, unfettered by the enactments of 41 Geo. III, cap. 17. To the Members of the present Board it is a source of deep regret to differ from the late one on

any point; and, more particularly, on one of such primary importance. Finding themselves, however, after the most attentive and dispassionate consideration, compelled to do so, they will state, as succinctly as the subject will allow, the arguments which have induced them to draw a conclusion different from that of their predecessors.

In the Charter of M'Gill College, the Royal Institution are appointed its Visitors, and are thus clothed with a character incompatible, as it seems to the present Members, with that control over rents and profits to which the late Members laid claim; since a direct interference with the rents and profits ought necessarily to place the Royal Institution itself under a visitatorial check; and, in the absence of a Court of Equity, to exercise that control over them, it might reasonably be demanded by the Governors of M'Gill College, "Quis custodiet istos custodes?" In the language of Lord Hardwicke, "If the estate and revenue were vested in the Royal Institution, they could not be Visitors, because they could not visit themselves; but it has never been held, that they could not be Visitors, merely because the Legal Estate of the Charity was vested in them." On the strength, then, of the distinction so clearly drawn here by his Lordship, the present Members conceive, that whatever may have been the rights and powers of the Royal Institution before the College was brought into existence, and their duties as its Visitors, consequently attached,—the Royal Institution ceased, on the erection of the building, and the appointment of its officers, to have any thing beyond a bare Legal Estate in its endowments.

Such would have been the reasoning, and such the inference of the present Members of the Royal Institution, if the question now under consideration had hinged solely and exclusively on the clause in the Charter creating them the Visitors of the College; but the proposition, that the Trust under Mr. M'Gill's Will is affected by the provisions of the 41 Geo. III, cap. 17, appears to be demonstrable to a certainty.

1st. From the words of that Statute, which enacts, "that all lands, tenements and hereditaments, &c. &c. and all sums of money, goods, chattels, &c. &c., which shall hereafter be paid, given, granted, purchased, appropriated, devised or bequeathed in any manner or way whatsoever, for and in favor of the said Schools and Institutions of Royal foundation, to and for the purposes of Education and the advancement of Learning within this Province, shall be and the same are hereby vested in the said Trustees and their successors, to and for the uses and purposes herein mentioned, declared and enacted concerning the same."

2dly. Because the above cited Act having been in operation when Mr. M'Gill made his Will, he must be presumed to have framed his devise and bequest with reference to it.

3dly. Because the Legislature, in empowering the Royal Institution by the 8th Victoria, c. 78, to sell a part of the Lands devised by Mr. M'Gill, without prescribing a rule respecting the proceeds of the sale different from that enjoined by the 41st Geo. III, c. 17, may naturally be supposed to have intended, that the course pointed out by that statute should be followed; it being a sound method of interpretation to construe statutes "in pari materia,"—and still more those which, as in the present case, are in "eâdem materiâ," with reference to each other.

4th. Because the late Board of the Royal Institution have recently admitted themselves to be bound

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in relation to Mr. M'Gill's devise, by that clause of the 41st Geo. III. c. 17, which restrains the Royal Institution from alienating the Lands held by them for a longer period than 21 years: and after this admission, it is difficult to conjecture, upon what ground of distinction they can avoid the force of that proviso, which directs them "to pay into the hands of the Receiver General of this Province, all rents, issues, and profits, and all sums of money which they shall receive by virtue of that Act."

Yielding, therefore, to the accumulated, and, as they think, irresistible force of the foregoing observations, the present members of the Board of the Royal Institution are unanimously of opinion, that the direction in the 41st Geo. III. c. 17, relative to the payment into the hands of the Receiver General of the Province, of all monies receivable by them, is applicable to, and operative on the Funds resulting from Mr. M'Gill's munificence.

Having by this determination removed the leading objection to the exercise of the visitatorial powers of the Royal Institution, it will be right to investigate, with some degree of care, the true extent of those powers, and the description of persons affected by them: In doing this, the peculiar structure of the two bodies, and their departure, in some striking particulars, from the form of all the Corporations known in England, ought never to be lost sight of; for an attempt to engraft upon them all the incidents which attach to the visitatorial character in that country, would, doubtless, lead to many incongruities and absurdities. As a specimen of the tendency of such a practice, the following passage from the legal opinion of Messrs. Stuart and Black, already adverted to, may be confidently cited:—

"The Royal Institution has, under its visitatorial power, the right to amend, or repeal, any by-law made by the Governors; and, amongst them, any by-law appointing the salaries of the Principal, Professors, and Officers of the College." Now, supposing that, in England, the visitatorial power does extend to the repeal of the by-laws enacted by the Corporation, subject to visitation, it is, to say the least of it, a startling proposition, and one to which the present members of the Royal Institution cannot certainly agree, that statutes enacted by such a body of men, including the Governor of the Province, as compose the Governors of M'Gill College, and confirmed by the Sovereign, can be repealed by a Corporation of Trustees, appointed, and at all times removable, by that very Governor, over whom they would, in that case, exercise the very highest act of authority—the abrogation of Laws framed with his concurrence—which any body of men can possess. In wholly repudiating such a pretension, the present members of the Royal Institution do not feel the slightest hesitation; and at the same time they unequivocally disclaim every kind of visitatorial control over the Governors of M'Gill College; nor do they believe such a control to be at all necessary to the regular working and well-being of that establishment. The Principal, and, perhaps, the only duty of the Governors under the charter appears to be, to enact statutes for the good government of the College; and in the discharge of their functions, as its Legislators, they neither are, nor need to be, under the revision and control of the Royal Institution. Any interference on their part with the funds of the College appears to be wholly foreign to the purposes of their appointment; and provided they entirely abstain from such interference, there cannot be the smallest cause for collision between the two bodies.

It is the assertion of a right to such interference, equally, as the present members of the Royal Institution conceive, unwarranted on both sides, that has engendered such fierce contention between them. To explain their ideas on this point more fully, the present members of the Royal Institution would divide the component parts of the College into the three following classes:—

1st. The Governors.

2nd. The Principal, Professors, and other Executive Officers.

3rd. The Royal Institution in their character of Visitors.

Of the first it has already been observed, that their peculiar province is to make statutes, regulating the finances, the course of tuition, and the whole economy of the College. The execution of those statutes devolves on the Executive Officers of the College in their several capacities. And the duty of enforcing the observance of those statutes, with a power, inseparably incident thereto, of punishing any violation of them, constitutes what may be termed the "Peculium" of the Royal Institution. Under such an arrangement of the several parts, with a judicious code of laws for the Government of the College, and with adequate funds for its support, it may reasonably be hoped, that the system might work harmoniously, and secure to the Province those transcendent benefits, which have hitherto been expected from it in vain.

In putting forth these views on the subject of this Minute, the members of the Royal Institution believe them to exhibit the most convenient, most consistent, most rational, and most legal construction, of which the charter of M'Gill College is susceptible; and as such, they propose implicitly to follow them, whenever they shall be called on to act, either as its visitors, or as the legal owners of all its present endowments.

(A true copy.)

(Signed,) R. R. BURRAGE,  
Secretary, R. I.

Montreal, 25th June, 1845.

*Letter from the Secretary of M'Gill College to the Provincial Secretary.*

M'Gill College,  
July 11th, 1845.

Sir,

The Board of the Royal Institution having communicated to the Governors of this College, their intention to pay "all monies applicable to the support of M'Gill College," to the Receiver General of the Province; I am directed by the Governors of this College, by a resolution passed at a meeting held on the 7th instant, respectfully to pray that His Excellency the Governor General will be pleased to issue his Warrant to the Receiver General, commanding him to pay all monies applicable to the support of M'Gill College, now received, or that may hereafter be received by him, from the Board of the Royal Institution, into the hands of the Bursar of the

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College, to be applied and disposed of according to the direction of the Governors.

I have the honor to be,

Sir,

Your most obedient Servant,  
(Signed,) J. W. ABBOTT.  
Acting Secretary.  
McGill College.

The Honorable  
Dominick Daly,  
Provincial Secretary.  
&c. &c. &c.

*Memorial of the Governors of McGill College, resident in Montreal.*

To His Excellency the Right Honorable Charles Theophilus Baron Metcalfe, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice Admiral of the same.

The Memorial of the Governors of McGill College, resident in Montreal,

Respectfully sheweth,

That your Memorialists, some months since, addressed a communication to the Provincial Secretary, requesting that your Excellency would be pleased to direct the monies belonging to McGill College, in the hands of the Receiver General, to be paid to your Memorialists; but your Memorialists have received no reply to that communication.

That, under these circumstances, your Memorialists are compelled to represent to your Excellency the pressing wants of the College, in the large sums now long over due, not only to various trades-people, but also to the Officers of the College, as well as in the sums for which your Memorialists made themselves personally liable, and which are demanded from them even by threatened legal coercion. Wherefore your Memorialists most earnestly pray your Excellency will no longer permit those resources to be withheld from them, without which they must suffer very great personal inconvenience, and the business of the University must be much embarrassed and impeded.

And your Memorialists will ever pray.

(Signed,) VALLIERES DE ST. REAL,  
Chief Justice.

JOHN BETHUNE,  
Principal, McGill College.

College, McGill,  
17th September, 1845.

*Letter from Provincial Secretary to the Principal of the Royal Institution.*

Secretary's Office,  
Montreal, 8th September, 1845.

Sir,

I have the honor, by command of the Governor General, to transmit to you the accompanying copies

of applications made by the Governors and Resident Officers of McGill College, praying that payment may be made to the former of the monies paid in from time to time to the Receiver General by the Board of the Royal Institution, in terms of their Minute of the 25th of June last; and I am to request that you will be good enough to bring the subject to which they relate, under the early consideration of the Board, and to advise me of their opinion and your own in regard thereto, for His Excellency's information.

I have the honor to be,

Sir,

Your most obedient Servant,  
(Signed,) D. DALY.

To Hon. R. A. Tucker,  
Principal of Board of  
Royal Institution, &c. &c. &c.

*Letter from the Principal of the Royal Institution to the Provincial Secretary, with Extracts from the Minutes of the Proceedings of the Board.*

Montreal, 19th September, 1845.

Sir,

I have had the honor to receive, and lay before the members of the Board of Royal Institution for the advancement of Learning, your letter of the 8th instant, with the several papers which accompanied it; and, in compliance with their desire, I now hasten to forward you Extracts from the Minutes of their Proceedings, at two meetings held, respectively, on the 15th and 18th of this month, for the purpose of conveying to His Excellency the Governor General, in the most full and satisfactory manner, the opinion and views entertained by the members of the Board on the interesting subjects which His Lordship has been pleased to bring under their consideration.

I have the honor to be,

Sir,

Your most obedient Servant,  
(Signed,) R. A. TUCKER,  
Principal of the Royal Institution.

The Honorable D. Daly, Esquire,  
Provincial Secretary,  
&c. &c. &c.

Extracts from the Minutes of the Proceedings of a Meeting of the Board of Royal Institution for the advancement of Learning, held at the Court House, in Montreal, on Monday, the 15th of September, 1845.

Present.

The Hon. R. A. TUCKER, Principal,  
T. A. STAYNER, Esquire,  
The Hon. F. A. QUESNEL,  
The Hon. PETER MCGILL,  
JAMES FERRIER, and  
T. B. ANDERSON, Esquires.

The Principal laid before the Board a Letter to him, of the 8th instant, from Mr. Secretary Daly, requesting the opinion of the Members of the Royal Institution, for the Governor General's information, upon certain applications relative to the Funds of

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M'Gill College in the hands of the Receiver General of the Province, which had been addressed to His Excellency by the Governors and Resident Officers of the College, and by the Rev. Dr. Lundy.

The Documents to which the attention of the Board has thus been directed, appearing to require more deliberate consideration than could now be bestowed on them, it was resolved,

That the consideration of them should be resumed at a Meeting to be held on Thursday next, the 18th instant, at 3 o'clock, P.M., expressly for that purpose.

Extract from the Minutes of the Proceedings of an adjourned Meeting of the Board of Royal Institution for the advancement of Learning, held at the Court House, in Montreal, on Thursday, the 18th day of September, 1845.

Present.

The Hon. R. A. TUCKER, Principal,  
 " " F. A. QUESNEL,  
 " " P. M'GILL,  
 T. B. ANDERSON,  
 JAMES FERRIER, and  
 R. ARMOUR, Esquires.

The Members of the Board of the Royal Institution having again taken into their most serious and respectful consideration the Letter from Mr. Secretary Daly, of the 8th instant, to the Principal, requesting, for the Governor General's information, the opinion of this Board upon certain applications appended to that Letter, which had been addressed to His Excellency by the Governors and Resident Officers of M'Gill College, and by the Rev. Dr. Lundy, on the subject of the Funds applicable to the support of the College, which now are, or hereafter may be, in the hands of the Receiver General of the Province, continue to be deeply impressed with a sense of the difficulty, as well as the importance, of the points to which their attention has thus been directed.

In their Minute of the 24th of June last, the Members of this Board expressed an opinion, "That any interference on the part of the Governors of M'Gill College with the Funds of that Institution, appeared to them to be wholly foreign to the purposes of their appointment;" and, adhering to that opinion, with a confidence in its accuracy resulting from calm and dispassionate reflection, they feel that they cannot consistently recommend a compliance with the request of the Governors of M'Gill College,—sustained, to a certain extent, by the Resident Officers, "that His Excellency would issue his Warrant to the Receiver General, commanding him to pay all monies applicable to the support of M'Gill College, now received, or that may hereafter be received by him, from the Board of the Royal Institution, into the hands of the Bursar of the College, to be applied and disposed of according to the direction of the Governors."

The application of the Funds of the College should, as the Members of this Board humbly conceive, take place by the hands of the Bursar, or other Ministerial Officer, not according to directions prescribed by the Governors after the receipt of the monies, but according to statutes, previously enacted, regulating the disbursements to be made by him under each head of expenditure: and, agreeably to this view of the subject, they think, that a Schedule, prepared by the Bursar, of monies required for the use of the College, under

the sanction of its statutes, ought to constitute the basis, or voucher, upon which the Governor General's Warrant should be grounded. The Funds applicable to M'Gill College having been paid to the Receiver General under the 41st Geo. III., cap. 17, s. 3, must necessarily be subject to the provisions of that Act, which distinctly gives the Governor General a disposing power over, and, by consequence, exposes him to a responsibility in regard to them, which seems to the Members of this Board to require, on the part of His Excellency, the exercise of a caution, in the appropriation of those Funds, directly opposed to an unqualified acquiescence in the application of the Governors of the College.

In arriving at this conclusion, the Members of this Board have naturally been very much influenced by the knowledge they possess of the past and present circumstances of the College; and it is possible, that under different circumstances their opinion might also have been different. Looking, however, at the present melancholy condition of the College,—tottering, as it were, on the very brink of ruin,—and sincerely believing, that the management of the affairs of the College has not hitherto been in any way satisfactory, they unhesitatingly repeat their opinion, that it would not be advisable for His Excellency to place at the disposal of the Governors of the College the monies now in the hands of the Receiver General, or which may hereafter be paid to him by the Royal Institution, without a statement exhibiting clearly and specifically the particular purposes for which the money is required. Among many considerations upon which this opinion is founded, one, of no small weight with the Members of this Board, is, the objection which presents itself to a reference of Mr. Lundy's claims to the decision of two Gentlemen, between whom and Mr. Lundy there unhappily exist differences which must, probably, disqualify them from forming an impartial judgment on his case. With respect to those claims, the Members of this Board have no means of testing their validity to the extent to which they are now urged by Mr. Lundy; but they do not hesitate to express their unanimous conviction, that he is certainly entitled to a reasonable compensation for his services up to the time when his suspension from office by Chief Justice Vallières and Doctor Bethune took place. From that period his case involves points, both of law and fact, which the Members of this Board are not now competent to decide; and which, perhaps, can only be definitively settled by the solemn adjudication of a Legal Tribunal.

On perusing the representation of "The Resident Officers of the College," the Members of this Board observe, that those Gentlemen complain of the "neglect" of this Board; and ascribe a large share of the inconvenience they are now suffering to the absence of a seasonable communication to the Governors of the College, of the Board's intention to pay over all the monies belonging to the College to the Receiver General, instead of paying the half-yearly revenue of it, accruing on the 1st of July last, to "The Governors," in conformity to a Resolution of their predecessors.

Upon this complaint the Members of this Board are induced to remark, that it evidently originates in error:

1st. Because, instead of any laches having been incurred, in communicating their intention to the Governors of the College, their Minutes will abundantly prove, that the communication was made at the earliest possible moment; and,

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2ndly. Because nearly the whole of the money paid to the Receiver General consisted, not of the annual Income, but of the fixed Capital of the College; and, consequently, was not available to the payment of Salaries under the terms of the Resolution of the 11th of January, 1845.

In adverting, however, to the incorrectness of this charge, the Members of this Board are very far from entertaining the slightest feeling of resentment towards the "Resident Officers;" on the contrary, they cordially sympathize with them under trials calculated to test the patience of most men; and they earnestly desire to see them relieved from the painful incidents of the anomalous situation in which they now stand, apparently without any fault on their side. Indeed, justice seems to call for some immediate measure of relief, which may mitigate, if it cannot altogether remove, the hardship of their case.

Whilst the Members of this Board anxiously wish strictly to confine their sphere of action within what they deem its legitimate limits, viz.: the management of the Estates of the College, and the discharge of their visitatorial duties—it will ever afford them the purest gratification if their services can be made conducive to the promotion of the true interests of the College; or in any degree tend to assist His Excellency the Governor General in the settlement of the embarrassing questions now before him.

The Members of the Board having thus given full expression to their sentiments on the several matters referred to in Mr. Secretary Daly's Letter, desire that an answer may be returned to it by the Principal, with all practicable despatch, in accordance with this Minute.

Certified to be true Extracts.

(Signed,) R. A. TUCKER,  
Principal.

Montreal, 19th September, 1845.

*Letter from the Provincial Secretary to the Governors of M'Gill College.*

Secretary's Office,  
Montreal, 23d September, 1845.

Gentlemen,

I have the honor, by command of the Governor General, to inform you that the subject of your application made to His Excellency, for payment to the Bursar of M'Gill College, of all monies received, or to be received, by the Receiver General from the Board of the Royal Institution, on account of the endowments of the Institution, to be by the Bursar applied and disposed of as the Governors of the College may direct, has engaged His Excellency's attentive consideration.

His Excellency feels himself unable to come to any other conclusion in the premises, than that the Funds of the College should be applied through the agency of the Bursar, not simply according to any directions to be given him by the Governors after he shall have received such Funds, but according to statutes previously enacted and regulating the disbursements he is to make under each Head of Expenditure. The Funds at present in question having been paid over to the Receiver General under the 41st Geo. III, cap. 17, must be held subject to the provisions of that

Act; and His Excellency cannot, therefore, avoid the responsibility which it imposes upon him, of deciding upon any applications which may be made for their disposal. His Excellency commands me accordingly to inform you, that a Statement by the Bursar, in Schedule form, of the several amounts required for the use of the College, under the sanction of its statutes, must constitute the basis or voucher upon which alone His Warrant upon the Receiver General can issue.

I have the honor to be, Sir,  
Your most obedient servant,  
(Signed,) D. DALY.

To Hon. Jos. R. Vallières de St. Réal,  
and The Rev. J. Bethune, D. D.,  
Governors of M'Gill College,  
&c. &c. &c.

*Letter from the Governors of M'Gill College to the Provincial Secretary.*

Montreal, 6th October, 1845.

Sir,

The undersigned have the honor to request the favor of your laying the enclosed Statements of the Bursar of M'Gill College before His Excellency the Governor General.

They beg leave to quote the statute referred to in Schedule A, for the information of His Excellency, viz.: "The Salaries, Fees, and Perquisites of the Professors, Lecturers, and Tutors, shall be determined and appointed by the Governors." They also think it proper to quote the following statute, viz.: "At all meetings of the Governors, two shall make and constitute a quorum for the transaction of such business as does not require, under the Charter, the presence of a majority of the Governors for the time being." Upon this statute it is to be remarked, that the Charter does not require the presence of such a majority of Governors, save and except only for the framing of statutes, and that consequently two Governors are competent to transact all other business of the College.

The undersigned have thought it proper to submit the information contained in Schedule E, although not required by His Excellency, shewing according to their information, that there are sufficient Funds for the liquidation of the College debts, as well as for carrying on the Institution, on its present establishment.

The undersigned respectfully desire it to be understood, that they submit the information contained in the enclosed papers without prejudice to the claim of the Governors of the College to be entitled to hold the whole proceeds of the bequest of the late Mr. M'Gill, and to be free to administer the same at their discretion, subject only to legal visitation.

The undersigned have the honor to be,  
Sir,  
Your most obedient humble servants,  
(Signed,) VALLIERES de ST. REAL,  
Chief Justice, Montreal.  
JOHN BETHUNE,  
Principal, M'Gill College.

The Honourable D. Daly, M.P.P.,  
Provincial Secretary,  
&c. &c. &c.

Appendix  
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SCHEDULE A.  
UNIVERSITY OF M'GILL COLLEGE.

Appendix  
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Salaries of Officers.	Amount.	The Authority under which they are claimed.
	£ s. d.	
September 30th, 1845, To the Principal, who is also Professor of Divinity; his salary from January 1st, 1845, to date, at £250 per annum, three quarters is	187 10 0	4th Resolution of the Governors passed at a meeting held July 13th, 1843, "That so soon as the funds derived from the property of M'Gill College shall admit of it, the Principal being also Professor of Divinity, shall receive an annual salary of £250." Vide also stat. 6, cap. vii.
To the Professor of Mathematics and Natural Philosophy; his salary from January 1st, 1845, to date, at £300 per annum, three quarters is ... ..	225 0 0	5th Resolution of the Governors at their meeting held July 13th, 1843, "That the salary of the Professor of Mathematics and Natural Philosophy shall be £300 per annum."
To the Registrar, Secretary, and Bursar; his salary from January 1st, 1845, to date, at £100 per annum, three quarters is ... ..	75 0 0	Part of statute 4, cap. viii, "He (the Bursar) shall receive an annual salary to be fixed by the Governors." 6th Resolution of the Governors at a meeting held July 13th, 1843, "That the salary of the Bursar shall be £100 per annum."
To the Beadle; his salary from January 1st, 1845, to date, at £30 a year, three-quarters is ... .. £22 10 4 His board during same ... .. 13 10 0	36 0 0	8th Resolution of the Governors at the above-mentioned meeting, "That the Beadle shall receive a salary of £30 per annum, besides being boarded."
To the Tutor; his salary from January 1st, 1845, to date, at £100 per year, three quarters is ... .. £75 0 0 Board of Tutor for same time ... .. 26 10 7½ To Tutor as Lecturer in Classical Literature; his additional salary of £50 per annum, from 4th January to date, three-quarters of a year ... .. 37 10 0	139 0 7½	6th Resolution of the Governors at a meeting held February 20th, 1844, "That the salary of the Tutor shall be £100 per annum, with board and lodging in College." 9th Resolution of the Governors at a meeting held 4th January, 1845, "That Mr. Edward Chapman be appointed Lecturer in Classical Literature, with an additional salary of £50 per annum."
Total amount of salaries ... ..	£662 10 7½	

(Signed)

JO. ABBOTT, A. M.  
Bursar, M'Gill College.

EXTRACT from the Statutes, Chap. viii. Sec. 2.

"He (the Bursar) shall apply the funds in his charge to the payment of salaries and other purposes, according to the statutes and orders of the Governors."

(Signed)

JO. ABBOTT, A. M.  
Bursar, M'Gill College.

SCHEDULE B.

List of Debts due by the College.	Amount.	Remarks and Explanations.
	£ s. d.	
Furniture Account.		
To Scott, Shaw & Co. ... ..	21 13 3	These expenses were incurred by the following Resolution of the Governors at a meeting on the 14th July, 1843, to wit: "That the Principal and Vice Principal be requested to take such preliminary steps as may be required for opening the College on the 6th day of September next, being the first day of Michaelmas Term," which Resolution was intended to carry into effect the objects of a Resolution of the Governors, passed on the 17th June, 1842, to wit: "That it is highly desirable to put M'Gill College into immediate operation, to the extent that can be warranted by the resources of the College."
To balance due Hilton & Baird ... ..	189 11 9	
To Crawford & Glen ... ..	2 16 1½	
To balance due Bethune & Kitson ... ..	101 16 11	
To do John Smith ... ..	4 10 0	
To W. A. Townsend ... ..	4 19 6	
To J. Dwight ... ..	17 12 0	
To Robert Campbell ... ..	15 9 0	
To Joseph Seobel... ..	15 7 1	
To J. C. Beers ... ..	26 12 9	
Building Account.		
To balance due to William Ludlam ... ..	53 15 11	
Total amount of furniture account... ..	£454 4 3½	

(Signed)

JO. ABBOTT, A. M.  
Bursar, M'Gill College.



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## SCHEDULE C.

List of Debts due by the College.	Amount.	Remarks and Explanations.
Charges Account.		
To balance due to John Harrison ... ..	£ s. d. 74 12 4	{ Vide Remarks and Explanations in Schedule B.
do Lovell & Gibson ... ..	29 10 9	
do Herald Office ... ..	6 5 3	
do William Don ... ..	7 14 0	
do Robert Slack ... ..	7 0 0	
do John Andrew ... ..	7 1 2	{ Glazing, &c.
To Society for Promoting Christian Knowledge ... ..	2 12 0	
To Morning Courier ... ..	28 7 11	
To balance due A. M'Donald ... ..	13 18 3	
do L'Aurore de Canada ... ..	10 8 1	
do T. Cary & Co. ... ..	4 9 3	
do J. W. Dunscombe & Co. ... ..	9 7 6	
do M. A. Skinner ... ..	4 10 6	
do — Clarke ... ..	5 18 6	
do W. Neilson ... ..	9 8 2	
do Waddell, Smith, & Co. ... ..	6 6 8	
do R. H. Radford ... ..	5 0 0	
do Benjamin & Brothers ... ..	14 6 5½	
do Armour & Ramsay ... ..	15 6 11	
do Montreal Gazette ... ..	7 6 2	
do John Mathewson ... ..	15 1 5	
do Forsyth, Richardson, & Co. ... ..	13 11 3	
do J. Brondson ... ..	10 3 3½	
To sundry small accounts ... ..	9 7 11	{ Interest upon the amount due the Gover- nors, upon £500 borrowed by them to enable them to open the College.
To Governors Vallières, Robinson, and Bethune ... ..	431 18 6	
To balance due R. Sharpley ... ..	196 8 0	
To the Steward of the College ... ..	54 13 8	
To the Governors Vallières, Robinson, and Bethune ... ..	60 0 0	
Total amount of charges account ... ..	£1060 13 11	

(Signed,)

JO. ABBOTT, A. M.

Bursar, M'Gill College.

## SCHEDULE D.

Recapitulation.	Amount.	Remarks.
From Schedule A.	£ s. d.	
Total amount of salaries ... ..	662 10 7½	{ These salaries are to the last day of September, because that is the end of the quarter.
From Schedule B.		
Furniture account ... ..	454 4 3½	{ This account is up to the first day of September, because that is the beginning of this Term.
From Schedule C.		
Charges account ... ..	1060 13 11	{ This account is up to the same date for the same reason.
Total amount of debts due by the College ... ..	£2177 8 10	

(Signed,)

JO. ABBOTT, A. M.

Bursar, M'Gill College.



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SCHEDULE E.

ASSETS of the College for payment of Debts according to the Statement of the Secretary of the Royal Institution, up to 31st January, 1845; and according to information derived from other authentic sources.

	£	s.	d.	£	s.	d.
Montreal Bank Stock, £1000, worth	1080	0	0			
Deposit in the same Bank	1400	0	0			
do in Bank of British North America	28	0	0			
				2508	0	0
Debts of the College				2177	8	10
Balance				£330	11	2

INCOME of the COLLEGE according to the same and similar Authority.

	£	s.	d.	£	s.	d.
Rent of House in the New Market	250	0	0			
Rentes constituées	129	6	8			
Rent of Burnside House	100	0	0			
do of 18 lots sold on 22nd September, 1845	272	8	0			
do expected from sale of lots to take place 27th inst.	408	0	0			
				1159	14	8
Salaries of Officers fixed.						
Principal and Professor of Divinity	250	0	0			
Professor of Mathematics and Natural Philosophy	300	0	0			
Lecturer in Classical Literature	185	7	6			
Secretary, Bursar, and Chaplain	150	0	0			
Beadle	30	0	0			
				915	7	6
Balance for contingencies				244	7	2
do from above				330	11	2
Arrears of rent for Burnside House				125	0	0
Total Balance for contingencies for one year				£699	18	4

Letter from the Provincial Secretary to the Trustees of the Board of the Royal Institution.

Secretary's Office,  
Montreal, 7th October, 1845.

Gentlemen,

I have the honor, by command of the Governor General, to transmit to you the accompanying letter and statements received from the Resident Governors of M'Gill College; and I am to request that you will favor me with an early communication of your views upon the subject to which they relate, for His Excellency's information.

I am to add, that the Rev. Mr. Abbott has received instructions to render you any explanations or other assistance which you may have occasion to call for.

I have the honor to be,  
Sir,  
Your most obedient Servant,  
(Signed,) D. DALY.

The Trustees of the Board  
of the Royal Institution.

Letter from the Provincial Secretary to the Bursar of M'Gill College.

Secretary's Office,  
Montreal, 7th October, 1845.

Sir,

I have the honor, by command of the Governor General, to inform you, that His Excellency has been pleased to refer the letter of the resident Governors of M'Gill College of the 6th instant, together with the statements which accompanied it, for the report of the Board of the Royal Institution; and I am to express to you His Excellency's desire, that you will afford that Body, if called upon by them to do so, any explanations or other assistance in your power, to enable them fully to understand the matters thus referred for their consideration.

I have the honor to be,  
Sir,  
Your most obedient Servant,  
(Signed,) D. DALY.

The Rev. Jos. Abbott, A. M.  
Bursar, &c. &c. &c.  
M'Gill College.

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*Letter from the Provincial Secretary to the Trustees  
of the Board of the Royal Institution, with one  
enclosure.*Secretary's Office,  
Montreal, 16th October, 1845.

Gentlemen,

I have received the commands of the Governor General, to transmit to you the accompanying Memorial received from the Medical Faculty of McGill College; and to request that you will favor me with an early communication of your views upon the subject to which it relates, for His Excellency's information.

I have the honor to be,  
Sir,

Your most obedient Servant,

(Signed,) D. DALY.

The Trustees of the  
Board of the Royal Institution.  
&c. &c. &c.

(Enclosure.)

To the Right Honorable Charles Baron Metcalfe,  
G. C. B. Governor General, &c. &c. &c.

The Memorial of the Medical Faculty of McGill  
College most respectfully sheweth:—

That your Memorialists, though an integral part of the University, and although they have prosecuted their labors successfully for several years, remain unprovided with any assistance from the Institution to which they belong.

That when in 1839, at the request of the Governor General, Sir John Colborne, they consented to resume the labors of their department, (which had been intermitted for several years,) His Excellency, with the other Governors of the College, sanctioned the payment to the Medical Faculty of £500 per annum; partly as salaries to the Professors, and partly to defray contingent expenses; the amount of which grant was to be increased so soon as the funds of the College would permit.

That in confident reliance on this promise, the Medical Faculty did resume their duties; but that after the departure of Sir John Colborne, it was found that no provision had been made for the payment of the amount, and that the Faculty must depend on their own resources.

That representation of the circumstance, and of the condition of the Faculty, was made to his successor, the late Lord Sydenham, who, allowing the justice of the claim, and appreciating the benefits to be realized from the operations of the Faculty, recommended to the Special Council of Lower Canada that a grant should be made equal to that which the Faculty had been led to expect.

That this grant was continued yearly till the Union of the Provinces, when being again recommended to the United Parliament, it was again approved, and has been continued till the present time.

Your Memorialists further beg leave to state, that they think themselves in justice entitled to a share in the revenues of the College, seeing that their duties

are equally arduous and important as those of any other portions of the College, and that in similar institutions the Medical department is considered as worthy of remuneration as others; in proof of which they refer to the College at Toronto, where the Medical Professors have adequate salaries for duties of a similar nature to those performed by your Memorialists.

Your Memorialists being, however, cognizant of the state of the revenues of the College, and having reliance on the continued liberality of the Legislature, are not desirous of urging any claim to so large a share of the funds as might be even a very small remuneration for the time and labor they expend, (their number being now ten,) but believe they have a just claim to a portion to enable them to meet the heavy expenses which they are obliged to bear.

Your Memorialists having heretofore lectured in a house hired for the purpose, have recently been allowed by the Governors to occupy rooms in the College buildings, but all the alterations of fittings necessary, as well as all the expenses of carrying on their operations during the winter, are to be defrayed by the Faculty themselves.

Wherefore, as the amount which the Faculty will be called upon to pay, will much exceed what they have paid in former years, the Faculty trust that your Excellency will take their case into consideration, and allow to them what may appear to your Excellency to be reasonable.

On behalf of the Medical Faculty,  
(Signed,) A. F. HOLMES, M. D.  
Secretary.

*Letter from the President of the Royal Institution to  
the Provincial Secretary, with a Report on certain  
matters referred to their consideration.*

Montreal, 17th November, 1845.

Sir,

By desire of the members of the Board of Royal Institution for the advancement of Learning, I have the honor herewith to forward you, for the information of His Excellency the Governor General, their Report on the matters referred to their consideration by your letters of the 7th and 16th ultimo.

In the great importance, and still greater difficulty, of the subjects of those communications, it is confidently believed a sufficient apology will be found for the delay which has taken place in returning an answer to them.

I have the honor to be,  
Sir,  
Your most obedient Servant,  
(Signed,) R. A. TUCKER,  
President of the Royal Institution.

The Honorable  
D. Daly, Esq.  
Provincial Secretary,  
&c. &c. &c.

P. S.—The several documents which accompanied your letters of the 7th and 16th ult. as enumerated below, are herewith returned to you.

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A Letter from the two Resident Governors of M'Gill College.

Five Schedules, A, B, C, D, E, enclosures in the last mentioned Letter.

An application from the Medical Faculty to participation in the Funds of M'Gill College, forwarded to the Board of Royal Institution with your letter of the 16th ult.

The Board of the Royal Institution for the advancement of Learning having, at a special meeting, held on Saturday the 15th of November, 1845, taken Mr. Secretary Daly's letters of the 7th and 16th of last month into their final consideration, Resolved, that the following Report should be addressed to His Excellency the Governor General, on the important subjects of those communications.

## REPORT.

In the investigation of the subjects referred to them by Mr. Secretary Daly's letters of the 7th and 16th ult., the members of the Board of Royal Institution have felt, that the very existence of M'Gill College might possibly be involved in the result of their deliberations; and they have, consequently, experienced, in every step of their proceeding, an intense anxiety, which has been sensibly aggravated by the difficulty of obtaining a correct knowledge of the exact amount of the existing debts of the College. In the Bursar's return of those debts, which accompanied Mr. Daly's letter of the 7th of last month, the amount was stated to be £2177 8s. 10d., which sum was afterwards increased, by the discovery of articles that had been omitted, to £2311 14s. 4d., and has since been swelled, by a corrected account furnished by Mr. Abbott, to £2754 10s. 9½d.

The vast magnitude of that debt, in comparison to the funds of the College, and coupled with the fact, that £2555 9s. 3d. had already been paid by the late Board of the Royal Institution, towards the support and entirely exclusive of the cost of building—of an establishment which had scarcely been two years in partial operation, could not fail to give rise to reflections of a very painful character, and even to suggest serious doubts, whether any part of the monies bequeathed by the late Mr. M'Gill, for the endowment of an University, can legally be appropriated to the liquidation of debts contracted under the authority of statutes still wanting that Royal confirmation which is emphatically required by the Charter; and upon which confirmation their validity seems wholly to depend. The words of the Charter are: "Provided that no such statutes, rules, and ordinances shall have any force or effect until allowed and confirmed by Us, our heirs or successors."

Deeply impressed with the importance of a legal problem which they do not deem themselves competent to solve, the members of the Board of Royal Institution respectfully recommend, that it should be submitted to the High Law Officers of the Crown, and that an unanimous opinion by them, in favor of the legality of the proceeding, should constitute the basis of any arrangement that may be adopted for the liquidation of the debts of M'Gill College. The claims of the other creditors may, possibly, stand upon a somewhat different footing from that of the Officers of the College; but should there be any real ground of distinction between them, there is no fear of its escaping the observation of the Law Officers, who,

in that case, will doubtless examine the question, first, as a general one; and, secondly, in its particular bearing upon each class of claimants.

In the hope that an opinion may be obtained from the Law Officers to justify the payment of the debts of the College; and under a strong conviction, that their payment must necessarily precede any attempt to rescue it from the miserable condition into which it has fallen, the members of the Royal Institution would even go the length of recommending, that every farthing that can be made available to the purpose, should be applied to the extinction of the existing debt; but since its amount, as stated by the Bursar, considerably exceeds the means of discharging it, an unpaid balance would still remain, sinking the College to the earth, unless some of the charges can with justice be struck out, or so lessened as to reduce the amount of debt to the same level with the assets. A minute scrutiny into the voluminous accounts rendered, would probably go far towards the attainment of that most desirable object; but this is a task requiring more time than the members of the Royal Institution have been able to bestow upon it; and they have accordingly confined their examination to certain articles which appear to them, upon principle, to be altogether inadmissible; and to a few others, in which they conceive, that the payment of a part of the sum due may be postponed with the least prejudice to the interests of the College, and with the smallest injury to the rights of individuals.

In the first class, the members have no hesitation in placing the sum of £629 17s.; a part of which has already been paid to Dr. Bethune, and the residue is now claimed by him. It consists of £562 10s. for his salary as Professor of Divinity; and of £67 7s. retained by him, apparently, for his services in collecting the rents of Burnside for three years. On the former charge it may be sufficient to remark, that, being grounded on a Resolution of the "Governors," dated 13th July, 1843:—"That so soon as the funds derived from the property of M'Gill College shall admit of it, the Principal, being also Professor of Divinity, shall receive an annual salary of £250." A sufficiency of funds is evidently a condition precedent to the claim of salary; and that, consequently, such claim could not possibly arise during any portion of a period in which the expenditure of the College has always been in more than the quadruplicate ratio of its income. Nor can it escape observation, that under a regulation palpably designed to be prospective in its operation, Dr. Bethune has charged for his salary from the very day of the passing of the Resolution by which it was granted, and for a period even antecedent to the earliest attempt to open the College. In whatever light, therefore, this charge may be viewed, it appears to the members of the Royal Institution to be one which ought to be decidedly rejected; and with respect to the sum of £67 7s., they cannot even imagine the colour of an argument by which Dr. Bethune's right to retain it can be sustained. See Appendix No. 3.

The next article which the members of the Royal Institution would venture to point out as highly objectionable, are the extra Salaries of £50 each to the Bursar and Classical Lecturer. To the members of this Board, the present condition of the College, in reference both to the extent of its pecuniary embarrassments, and to the limited number of Students, (now reduced to three!) would seem to call for retrenchment, rather than augmentation of Salaries; and they accordingly deem themselves restrained by a strong sense of duty from recommending the payment of any additional Salaries under the existing circumstances of the College.

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In offering the following suggestion, that out of the nine months Salaries of the Resident Officers now in arrear, an advance of a quarter's Salary only should be immediately made to them, and that the payment of the other two quarters should be postponed for a while, the members of the Royal Institution feel very great regret; for they are not only alive to the inconvenience which this may occasion to the Officers themselves, but they are also sensible that any arrangement which may prevent the Officers from discharging their debts with punctuality must tend to lessen their respectability, and, by necessary consequence, to impair their powers of being useful in their official capacity. Yet with a mass of debt exceeding every possible means for its liquidation, the postponement of some payments is absolutely inevitable; and after much consideration the members of this Board have arrived at the conclusion that the Salaries present, upon the whole, the least exceptionable object to which such postponement can be applied. Should this suggestion be adopted by His Excellency, the members would respectfully propose, that another quarter's Salary should be punctually paid at the termination of the current, and each succeeding quarter, until the Funds of the College will allow of the payment of the half-year's Salary which, until then, must always continue to be in arrear. Whenever that much to-be-desired event shall arrive, the quarterly payment of Salaries ought to take place with scrupulous exactness.

In directing their attention to the application from the Medical Faculty, inclosed in Mr. Daly's Letter of the 16th ultimo, to participate in the Funds of M'Gill College, the members of the Royal Institution have brought to the consideration of that subject a disposition to estimate very highly the importance of the Medical Faculty, as a branch of the University, and an earnest desire to foster its growth, and to extend the sphere of its usefulness as much as possible. From the preceding review of the financial affairs of the College, it must, however, be abundantly manifest, that nothing in the shape of pecuniary assistance can, at this moment, be done for the Medical Faculty; and the members of the Royal Institution

will, therefore, content themselves with observing, that under a more prosperous posture of the finances of the College, it may hereafter become expedient to consolidate the sum of £500, now annually voted by the Legislature, for the use of the Medical Faculty, with the other sources of Revenue belonging to the College, and to assign such a proportion of the aggregate amount to the Medical Faculty as may be consistent with its just claims, in relation to those of the other departments of Science.

For the sake of elucidating more clearly their opinion upon the several matters contained in this Report, and of exhibiting more distinctly in each case, the foundation upon which their opinion rests, the members of the Royal Institution have appended to it certain papers to which they would solicit the Governor General's particular attention, and, more especially to one, (See Appendix No. 4,) in which they have brought before His Excellency the sentiments of the late Board on the different topics herein discussed; conceiving that the perfect agreement in opinion between their predecessors in office and themselves upon those points, will deservedly impart energy and force to their united voice.

Convinced from the view now presented of the melancholy condition to which M'Gill College is reduced, that the Institution itself is actually "ἐν ζυγῷ ἀσπῆς," the members of the Royal Institution are extremely desirous of laying before His Excellency a succinct statement of the leading causes which have brought it to this lamentable state, accompanied with such practicable suggestions as may seem calculated to rescue it from impending ruin; but they dare not pledge themselves positively to do so, from a serious apprehension, that they may not only be deficient in these higher qualifications of talent and ability which so grave and responsible a task imperatively demands, but may even be unable to bring to it that degree of leisure from other avocations which, were they possessed of the other requisites, is still indispensably necessary to its successful performance.

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APPENDIX No. 1.

	£	s.	d.
Whole amount of the Debts of M'Gill College, as stated in the Bursar's Schedule D. accompanying the letter of 6th October, 1845, from Ch. J. Vallières and Dr. Bethune to Mr. Seeretary Daly ...	2177	8	10
Sums added, as having been incorrectly omitted in Schedule D. by the Bursar, in his answers to certain queries proposed to him by the Board of Royal Institution ... ..	133	5	6
	£2310	14	4
Sum returned by the Bursar to the Royal Institution as the correct amount of the debts of M'Gill College, in a Statement furnished by him on the 31st October, 1845 ... ..	£2754	10	9½
From which it appears that the difference in the first and last Return (embracing the same period) amounts to ... ..	£577	1	11½
that is, to more than a fourth of the original sum.			

- The debts being thus ascertained, the next subject which claims consideration is a view of the funds which may be applied to their liquidation; and it may be right to divide those funds into three classes, viz.
- 1st. Such as are in actual possession.
  - 2nd. Such as are certain, though not yet reduced into possession.
  - 3rd. Such as are altogether contingent and uncertain.



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STATEMENT of FUNDS which may perhaps be applied towards the Liquidation of the Debts of  
M'Gill College.

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CLASS 1ST (in possession.)										£	s.	d.
Amount in the hands of the Receiver General of the Province	...	...	...	...	...	...	...	...	...	1158	19	8
16 shares of Montreal Bank Stock, worth about	...	...	...	...	...	...	...	...	...	912	0	0
Small balance in the Bank of Montreal...	...	...	...	...	...	...	...	...	...	32	7	6
Whole amount of Class No. 1	...	...	...	...	...	...	...	...	...	£2103	7	2
CLASS 2ND (certain.)												
Rente constitue now due by Mr. Cuvillier...	...	...	...	...	...	...	...	...	£48	0	0	
Rent now due by Mr. Mack	...	...	...	...	...	...	...	...	62	10	0	
Whole amount of Funds that may be deemed certain	...	...	...	...	...	...	...	...	...	110	10	0
Deduct												
To pay premium for Fire Insurance and expenses of two auctions, about	...	...	...	...	...	...	...	...	...	100	0	0
Net disposable amount	...	...	...	...	...	...	...	...	...	£2113	17	2
CLASS 3RD (uncertain.)												
A year and three-quarters rent of Burnside (to January, 1846)	...	...	...	...	...	...	...	...	...	175	0	0
Grand aggregate amount...	...	...	...	...	...	...	...	...	...	£2288	17	2
Since, however, the last article is likely to form the subject of an action at law, it must necessarily be rejected from the present consideration of ways and means for the payment of the debt. By comparing that debt, as stated in the former page, at										2754	10	9½
With the sum available towards its satisfaction	...	...	...	...	...	...	...	...	...	2113	17	2
There will appear to be a deficiency of assets of	...	...	...	...	...	...	...	...	...	£640	13	7½
But in order to get rid of that balance, very nearly the sum claimed by the Reverend Dr. Bethune may fairly be deducted	...	...	...	...	...	...	...	...	...	629	17	0
And the whole debt would be paid with the exception of	...	...	...	...	...	...	...	...	...	£10	16	7½

In the foregoing view no notice has been taken of some immediate wants of the College; nor has any provision been made for the probable expenses of the current quarter. It remains, therefore, to inquire how both these objects may be secured.

STATEMENT intended to exhibit the probable Financial State of M'Gill College on the  
1st January, 1846.

										£	s.	d.
Amount of existing debts as by the Bursar's return	...	...	...	...	...	...	...	...	...	2754	10	9½
Wanted immediately for fuel, £150; and for contingencies, £22 17s.	...	...	...	...	...	...	...	...	...	172	17	0
Required immediately, according to the Bursar's account	...	...	...	...	...	...	...	...	...	£2927	7	9½
Deduct												
1st, From Dr. Bethune	...	...	...	...	...	...	...	...	...	629	17	0
2nd, Extra salary of Tutor	...	...	...	...	...	...	...	...	...	37	10	0
3rd, Six months salary of Mr. Wickes	...	...	...	...	...	...	...	...	...	150	0	0
4th, do do Mr. Abbott	...	...	...	...	...	...	...	...	...	50	0	0
5th, do do Mr. Chapman	...	...	...	...	...	...	...	...	...	50	0	0
6th, do do Beadle	...	...	...	...	...	...	...	...	...	15	0	0
Reduced amount of immediate wants	...	...	...	...	...	...	...	...	...	£1995	0	9½
Add												
1st quarter's salary to Mr. Wickes on 1st January, 1846	...	...	...	...	...	...	...	...	...	75	0	0
2nd do do Mr. Chapman	...	...	...	...	...	...	...	...	...	25	0	0
3rd do do Mr. Abbott	...	...	...	...	...	...	...	...	...	25	0	0
4th do do Beadle	...	...	...	...	...	...	...	...	...	7	10	0
5th, board, wages, and contingencies	...	...	...	...	...	...	...	...	...	60	9	0
Whole probable expenditure to 1st January, 1846, inclusive	...	...	...	...	...	...	...	...	...	£2187	19	9½
To meet which there is,												
1st, Amount now available, as stated on former page	...	...	...	...	...	...	...	...	...	2113	17	2
2nd, Amount of rent which will then be due from Mr. Mack	...	...	...	...	...	...	...	...	...	62	10	0
Whole amount of funds that can certainly be calculated on	...	...	...	...	...	...	...	...	...	2176	7	2
Deficit	...	...	...	...	...	...	...	...	...	£11	12	7½

The payment of which must depend on the chance of obtaining the rent for Burnside, which will amount on the 1st January, 1845, to £175.



Appendix (Z.)	APPENDIX No. 2.	Appendix (Z.)
1st May.		1st May.
The Bursar has stated the amount of sums already paid for the support of M'Gill College (exclusive of the cost of building) to be...		£ s. d.
And he estimated the debts now existing at ...		3001 13 0
Making an aggregate charge, in about two years, of ...		2754 10 9½
Of the sums already paid, viz. ...		£5756 3 9½
The Royal Institution appears to have supplied ...		3001 13 0
And the Bursar states that the balance has been discharged from fees, caution money, and the rent of Burnside ...		2555 9 3
The Bursar's return of the debts of the College ...		£446 3 9
Being reduced, 1st, by a disallowance of Dr. Bethune's claim for ...		2754 10 9½
2nd, do do Tutor's extra salary ...		£629 17 0
		37 10 0
The true amount of the debt will seem to be ...		667 7 0
To which if the sums already paid be added...		2087 3 9½
The expenditure for about two years will then appear to be ...		3001 13 0
		£5088 16 9½

From the strong opinion, however, which has been expressed by the late members of the Royal Institution of Mr. Abbott's deficiencies as an accountant, and from their own knowledge of the unsatisfactory manner in which the accounts of M'Gill College appear to have been kept, the present members of the Board are induced to think it probable, that, upon a minute and careful investigation of the accounts, a further reduction may be made in the Bursar's estimate of the existing amount of the debt; and they would accordingly respectfully suggest, that Mr. Wickes and Mr. Chapman, whose College duties being now limited to the classical and mathematical instruction of only three students, may easily bring sufficient "tempus subsecivum" to the task, should be requested by His Excellency to examine and report upon the accounts of the College from its first establishment down to the present period; and that such scrutiny by these gentlemen should precede the issue of the Warrant for the payment of the debts.

The members of the Board of Royal Institution would also strongly recommend, that to every Warrant there should be appended a schedule containing a careful account of the services to which the money given by the Warrant should be applied; and that the Bursar should accordingly be held strictly responsible for its faithful application to the particular purposes enumerated in that schedule.

APPENDIX No. 3.

On the supposition that the sum in the hands of the Receiver General of the Province,—the Bank Stock,—and the other small disposable funds, should all be applied towards the payment of the debts of the College, its revenue would then consist,

1st, of Rente constitue payable by Mr. Cu villier ...	£96 0 0	£ s. d.
2nd, do do do Mr. Gillespie ...	33 6 8	
3rd, of Rent es Fonci ère on 18 lots sold in September last ...	272 8 0	
4th, do do 14 do 30th October, 1845 ...	210 0 0	
5th, Rent of a house in New Market ...	250 0 0	
Whole amount of revenue that can be deemed certain ...		861 14 8
Deduct		
The amount of premiums on Insurance of the College and the other buildings, with a small allowance for incidental charges ...		61 14 8
And the net certain income will be ...	£800 0 0	
To which, if we should ever add the nominal rent of Burnside ...	100 0 0	
The amount would not exceed ...	£900 0 0	
Without taking any notice, therefore, of the contingent expenses of the College—a single item of which, for fuel, exceeds £150 per annum, the annual income would fall short of the amount of permanent salaries as returned by the Governors in Schedule E., at ...	915 7 6	
	£15 6 6	

And, surely, no other argument can be necessary to prove that the time has not yet arrived when a salary contingent upon a sufficiency of funds can be fairly claimed. Here, then, the members of the Royal Institution might rest their reason for thinking that Dr. Bethune has, as yet, no right whatever to a salary, under the Resolution of the 13th January, 1843; but as the two Resident Governors of the College have endeavored to sustain Dr. Bethune's claim, by a Statement furnished to His Excellency the Governor General, marked E, in which there are several considerable inaccuracies, the members of the Royal Institution deem it necessary to exhibit a true state of the question, by making the proper corrections in Schedule E.



Appendix (Z.)										Amount stated in Schedule E.			Actual amount.			Appendix (Z.)																							
										£	s.	d.				£	s.	d.																					
1st May.										* 1. Montreal Bank Stock										...																			
Deposit in Banks										...										...										...									

INCOME of the COLLEGE.

Rent of the house in New Market ... ..	250	0	0	250	0	0	
Rentes Constituées ... ..	129	6	8	129	6	8	
Rentes Foncières of 18 lots sold in September... ..	272	8	0	272	8	0	
do do of 14 do sold 30th October, 1845... ..	408	0	0	210	0	0	
† 2. Rent of Burnside House ... ..	100	0	0	100	0	0	
Whole annual revenue ... ..	£1159	14	8	Whole revenue	£961	14	8
Permanent salaries, per Schedule E. ... ..	915	7	6		915	7	6
Excess of income above amount of salaries ... ..	£244	7	2		£46	7	2
‡ 3. Arrears of rent for Burnside .. ...	125	0	0		125	0	0
Balance applicable to contingent expenses... ..	£369	7	2		£171	7	2
Add, as above ... ..	330	11	2	Deduct, as above	651	1	1½
Disposable surplus ... ..	£699	18	4	Unpaid debt	£479	13	11½

REMARKS.

\* 1. The Bursar had sufficient reason to warrant him in estimating the Bank Stock at the sum stated by him; the difference between his statement and the actual amount arising from the recent sale of four shares to pay for the commutation of Seigniorial dues.

† 2. It is hardly safe to calculate on this rent.

‡ 3. These arrears, it is feared, will never be realized.

From the foregoing corrected view of the financial condition of M'Gill College it will appear, that—putting out of the question the serious consideration of the sacrifice of about £2500 of capital which was necessary to procure the balance exhibited in the Bursar's Schedule E, and giving credit for rent, and arrears of rent, of Burnside, under a very remote prospect of realizing either—the disposable surplus of £699 18s. 4d. stated in Schedule E to be applicable to the contingent expenses of the ensuing year, is actually converted into a deficiency of means of discharging the debt equal to £479 13s. 11½d., or, should the Burnside rent not be realized, the deficiency would be £704 13s. 11½d.

Of Dr. Bethune's right to retain the sum of £67 7s. all the information which the members of the Royal Institution at present possess, is contained in an account in which the Dr. charges himself with three years rent of Burnside, £225, and acquits himself of that sum:—

1st, By a balance which he states to be due to him of	...	...	...	...	...	...	...	£	s.	d.
2nd, By expenses of journies on the affairs of the College	...	...	...	...	...	...	...	21	10	0
3rd, By disbursement for repairs, insurance, &c. &c. &c.	...	...	...	...	...	...	...	96	3	0
4th, Balance by Principal, 3½ years, making an average of £19 4s. 10½d.	...	...	...	...	...	...	...	67	7	0
								£225	0	0
If it should be deemed proper to withhold the £629 17s. from Dr. Bethune, it still remains to be shewn how this can most easily be done.										
It is compounded of salary already received by him	...	...	...	...	...	...	...	375	0	0
Sum retained by him	...	...	...	...	...	...	...	67	7	0
Salary included in Bursar's Schedule A.	...	...	...	...	...	...	...	187	10	0
								£629	17	0
From the Bursar's last return of the debts of the College, it may therefore be proper to strike out,										
1st, Three-quarters salary to Dr. Bethune	...	...	...	...	...	...	...	187	10	0
2nd, Sum said to be due to Dr. Bethune	...	...	...	...	...	...	...	33	11	0
								£221	1	0
And to deduct the balance of £408 16s. from the sum of £483 15s. 2d. returned by the Bursar as a debt to the "Governors."										



Appendix  
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## APPENDIX No. 4.

Extracts from the Minutes of the Proceedings of the Board of the Royal Institution for the advancement of Learning, at meetings respectively held on the 15th January, 1844, and the 10th December, 1844.

*15th January, 1844.*

The Board intimated to the Resident Governors on a former occasion, that the Gross Income at their disposal, (subject however to deductions for Agency, repairs, &c. &c.) did not exceed £559 per annum, to which an addition has since been made by a further investment, producing about £30 per annum. The Board observe, however, that the Salaries stated to be assigned by the Governors to the Professors and to a Secretary, and other fixed annual charges, amount to £730 per annum.

With respect to the remaining items of the sum demanded by the Resident Governors, amounting to about £1300, and consisting as stated in the heading of the account of expenses incurred in making the necessary preparations for opening and carrying on M'Gill College, the Board observe—

1st. That some of the expenses incurred do not appear to have had any connection with the opening or carrying on of M'Gill College.

2ndly. That this expenditure for contingencies amounts in one year (and the quarter part of it incurred within five months) to much more than three years income of the Funds in the possession of the Board—an expenditure so wasteful, without precedent or principle, the Board feel it their duty to reject and resist, when called upon to provide for it out of the insufficient Fund which they hold in trust.

They cannot defray it, nor can they meet the excess of the fixed Salaries and charges sanctioned by the Resident Governors over the actual available income, without sacrificing a large portion of the remaining amount (already but too inadequate) of the Bequest made to them by the Testator for permanent support of the Institution. This sacrifice they find it their duty not to make, and they must refer the Resident Governors to the various Minutes of the Board already transmitted to them, bearing date of 7th July last.

*10th December, 1844.*

The result of an examination into the financial concerns of the Institution, exhibits a state of things too much in unison with the disordered condition of its other interests. Not only is the scale of permanent expenditure for the College Establishment in Salaries and contingent charges two-fold the income applicable to it, but a debt has been incurred by the Governors, in the course of a few months of 1843, in making preparations to open the College, to the amount of £1550, equal to three years nett revenue of the whole property of the College.

Among the items of expense thus incurred, are the travelling charges of the Principal and Vice Principal in going to Kingston and Toronto,—and the character of the whole is that of wasteful expenditure beyond the necessity of the case.

The Board, however, feeling that innocent third parties, to whom the larger part of this debt is due,

ought not to be made to suffer, have reluctantly come to the resolution of sacrificing a part of the Capital of the Trust to discharge this demand; although by so doing they further diminish by nearly £90 the annual Income already insufficient.

On examining the Bursar and inspecting his Books, the Board could not but remark the defective way in which the accounts are kept, and the Bursar's imperfect acquaintance with the pecuniary affairs of the Institution; nor can they admit that any excuse for these deficiencies is afforded by the fact acknowledged by that Officer, that he has no knowledge of matters of accounts; that he has not been himself permanently resident and performing his duties, but has left them to a Deputy. The Board conceive that every shilling received from the property of the Institution, or on its account, or for its support, and every item of the expenditure, should appear fairly and intelligibly stated on the College Books of Accounts. But the Board must also record their opinion, that neither this duty nor that of Secretary requires the appointment of a separate Officer; that the office of Bursar and Secretary should be abolished, and the Salary of £100 saved to the College, and that the duties now performed by the Bursar and Secretary and Registrar should be divided between two of the Professors.

Among other objects of enquiry the attention of the Board has been particularly turned to the receipts and expenditures of the revenues, rents or proceeds of the Burnside Estate, since May, 1840—when Dr. Bethune gave up possession of that property: upon this matter, which forms a necessary part of the College Accounts, the Bursar's Books afford no information; and it was with some difficulty that the Board ascertained from the Bursar that the monies in question had been received by the Acting Principal. A paper in Dr. Bethune's hand writing was subsequently produced, purporting to be a statement of the sums so received by him from Burnside Estate—from May, 1841, to May, 1843, and of the expenditure of a part thereof.

From other sources of information the Board have ascertained that Dr. Bethune has not debited himself with a sum of £15 received by him in the year ending 1st May, 1843, nor does his statement shew what sums have been derived from renting the fields of Burnside as pasture or for grass, while he takes credit for £40, as remaining due to him by the Royal Institution, at the period of his giving up possession of Burnside, which sum he had agreed by his letter of 26th March, 1839, to allow to be deducted from his then demand, and had accepted the residue in satisfaction of his claim; and he also states the balance of £88 upon the present statement, as retained by him.

But as no authority appears by the Minutes of the proceedings of the Governors to have been ever given by them for Dr. Bethune's appropriation of this balance to his own remuneration, the Board declare it to be the duty of the Bursar to call upon the acting Principal to pay over to him this balance, together with that of £40, for which Dr. Bethune has improperly taken credit, and also the sum of £100 received by him from the actual tenant of Burnside, for rent since the date of his Statement; and that the Bursar should demand payment from that tenant of the current and future accruing rent. But the Board do not hereby intend to recognize in any way the right of Mr. Pelton, from whom the present tenant appears to hold the property, to be in possession of it, although delivered to him by Dr. Bethune under color of the arrangement for a long lease of the pro-

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perty begun in 1842, but never perfected with the sanction of the Board. On the contrary, the Board hold it to be the duty of the Governors and themselves to take immediate measures for ousting any person holding adverse possession, in order that the property may be turned to the best account for the benefit of the College, so soon as the legal difficulties in the way are surmounted, which at present are considered by the Council of the Board at Montreal to prevent the Board from giving a title for more than twenty-one years.

*Letter from the Provincial Secretary to the Resident Governors of M'Gill College.*

Secretary's Office,  
Montreal, 9th December, 1845.

Gentlemen,

The Administrator of the Government having had under consideration in Council your applications of the 11th of July and 17th of September last, that the monies belonging to M'Gill College in the hands of the Receiver General of the Province, might be placed at your disposal for the uses of the College, I have the honor, by His Excellency's command, to inform you in reply, that with every wish to terminate the difficulties now existing in the affairs of M'Gill College, in so far as he can with propriety do so, His Excellency regrets to find that under the peculiar circumstances of the case, it is out of his power to direct a compliance with your request, inasmuch as before proceeding to direct the payment of any sums deposited in the hands of the Receiver General under the operation of the Act 41 Geo. III., cap. 17, he is bound to see that there exists sufficient authority for such disposition of the same.

His Excellency is advised that the Funds in question are vested in the Trustees of the Royal Institution under the provisions of the above mentioned Act, for the support of M'Gill College, and that the Royal Charter of the said College imperatively demands that all the Statutes, Rules, and Ordinances of the College shall be confirmed by Royal Authority, before they shall have any force or effect whatever in Law; and that these Statutes, Rules, and Ordinances have never received the Royal confirmation.

Under these circumstances His Excellency does not feel warranted in directing the application of any of the Funds in the hands of the Receiver General, to the liquidation of debts contracted by the Government of the College under the authority of Statutes which he is advised have no effect in Law.

I have the honor to be,  
Gentlemen,  
Your most obedient servant,  
(Signed,) D. DALY.

The Resident Governors  
of M'Gill College.

*Letter from the Provincial Secretary to the Trustees of the Board of Royal Institution.*

Secretary's Office,  
Montreal, 9th December, 1845.

Gentlemen,

With reference to my letter to you of the 21st ultimo, I have received the commands of the Admi-

nistrator of the Government, to inform you that His Excellency has had under consideration, in Council, the subject of the application of the Governors of M'Gill College for payment to them, for the purpose of enabling them to liquidate the debts of the College from the Funds of the College endowment, at present in the hands of the Receiver General; and that His Excellency is led to the conclusion that he would not be warranted in directing such payment, inasmuch as he is advised that before doing so, the existence of a sufficient authority should be ascertained for the disposition proposed to be made of the Funds in question, and that the Statutes of M'Gill College under presumed authority of which these debts have been contracted, not having received the Royal Sanction, are of no effect in Law.

I have the honor to be,  
Gentlemen,  
Your most obedient servant,  
(Signed,) D. DALY.

The Trustees of the Board  
of the Royal Institution.

*Letter from the Principal of M'Gill College to the Provincial Secretary.*

Montreal, 24th November, 1845.

Sir,

In the absence of the Bursar of M'Gill College from Town, I think it my duty to inform you that a seizure was made of the Furniture of the College on Saturday last, at the suit of John Harrison, for a sum amounting to between £80 and £100, and that unless payment be made, in the mean time, the said Furniture will be sold on the 2nd proximo. I venture to hope that under such circumstances, His Excellency the Governor General will issue his Warrant for the amount.

I have the honor to be, Sir,  
Your most obedient servant,  
(Signed,) JOHN BETHUNE,  
Principal, M'Gill College.

The Honorable D. Daly,  
Provincial Secretary, &c. &c. &c.

*Letter from the Secretary of M'Gill College to the Provincial Secretary.*

M'Gill College, December 10th, 1845.

Sir,

I have the honor to acknowledge the receipt of your letter of yesterday's date, and to request that you will furnish me with a Copy of the last Report from the Board of the Royal Institution to Lord Metcalfe, on the subject of the Debts and Liabilities of M'Gill College, for the information of the Governors.

I have the honor to be, Sir,  
Your obedient servant,  
(Signed,) JO. ABBOTT,  
Secretary, M'Gill College.

The Honorable D. Daly,  
Provincial Secretary,  
&c. &c. &c.

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*Letter from the Provincial Secretary to the Secretary of M'Gill College.*Secretary's Office,  
Montreal, 17th December, 1845.

Sir,

In reply to your letter of the 10th instant, I have the honor, by command of the Administrator of the Government, to enclose to you, for the information of the Governors of M'Gill College, the accompanying Copy of the Report made by the Board of the Royal Institution to Lord Metcalfe, on the subject of the Debts and Liabilities of the College.

I have the honor to be,  
Sir,  
Your most obedient servant,  
(Signed,) D. DALY.

Rev. Joseph Abbott,  
&c. &c. &c.  
M'Gill College.

*Letter from the Secretary of M'Gill College to the Provincial Secretary, with one enclosure.*M'Gill College,  
December 18th, 1845.

Sir,

In accordance with a Resolution of the Governors of M'Gill College, passed at their meeting yesterday, I have the honor to communicate to you the enclosed Resolution, in order that it may be submitted to the consideration of His Excellency the Administrator of the Government.

I have the honor to be,  
Sir,  
Your obedient servant,  
(Signed,) JO. ABBOTT,  
Secretary to the Governors of  
M'Gill College.

The Honorable D. Daly,  
Provincial Secretary.

(Enclosure.)

At a Special Meeting of the Governors of M'Gill College, held December 17th, 1845, it was Resolved:—

That the Governors of M'Gill College cannot coincide with His Excellency the Administrator of the Government, in Council, in the sufficiency of the ground in which his refusal is based.

First, because the Governors of the College are of opinion, as stated in their Resolution of the 4th January last, that the sanction of the Crown is not requisite to the legality of the Statutes, Rules and Ordinances of the College.

Secondly, because if such sanction were necessary the greater proportion of the expenditure in question was not made by Statute, but by simple Resolutions of the Governors, who have authority by the Charter to appoint a Principal and four Professors, without reference to any Statutes, Rules, and Ordinances, and to fix their Salaries with or without Statutes.

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Thirdly, because it is manifestly unjust on the part of the Executive to advise the Crown not to sanction the Statutes, Rules, and Ordinances of the College, and then to assign the absence of such sanction as the reason for refusing to give up the monies belonging to the College, which are in the hands of the Receiver General.

Fourthly, because the right assumed by the Executive Government to dispose of the monies belonging to the University of M'Gill College, proceeds from the voluntary relinquishment of the same right hitherto claimed and exercised by the Royal Institution for the advancement of Learning, in the exercise of which assumed right that body has repeatedly sanctioned the payment of the Salaries of the Officers of that Establishment, as well as divers other expenses incurred by the Governors for the use of the College; and that the Government having succeeded the Royal Institution in the possession and management of those Funds is clearly bound to act in accordance with the practice of their predecessors in the premises; as otherwise the Officers and other creditors of that Institution will be taken by surprise, and defrauded of their just claims and expectations.

*Letter from the Provincial Secretary to the Resident Governors of M'Gill College.*Secretary's Office,  
Montreal, 30th December, 1845.

Gentlemen,

I have had the honor to receive and to bring under the consideration of the Administrator of the Government the Resolution passed at a Special Meeting of the Governors of M'Gill College, held on the 17th instant, transmitted with the Reverend Mr. Abbott's letter of the 18th.

His Excellency, in Council, has carefully reconsidered the various questions arising out of the present position of the affairs of the College, but sees no reason to depart from the decision upon the same conveyed to you by my letter of the 9th instant. If, however, you are of opinion, that, as Governors of the College, you have legal rights in reference to the funds now in the hands of the Receiver General, and which are vested in the Trustees of the Royal Institution under the provisions of the Act 41st Geo. III, cap. 17, His Excellency is advised that such rights can be legally ascertained only by a Judicial decision; and should you deem it desirable to obtain such a decision, he will be prepared to direct that every assistance should be afforded by the Government to that end.

With reference to the allegation made in your Resolution, that the Executive Government had advised Her Majesty to refuse Her Royal Sanction to the Statutes, Rules, and Ordinances passed by the Governors of the College, I am to observe, that so far as His Excellency is aware, the question of the propriety of confirming those Statutes is one which the Provincial Executive has never had under consideration.

I have the honor to be,  
Gentlemen,  
Your most obedient servant,  
(Signed,) D. DALY.

The Resident Governors  
of M'Gill College.



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*Letter from the Secretary of M'Gill College to the  
Provincial Secretary.*M'Gill College,  
16th January, 1846.

Sir,

Having submitted your letter of the 30th ultimo, to the Governors of M'Gill College, I am directed by them to make you the following communication, in reply, for the information of His Excellency the Administrator of the Government.

The Governors have only the choice of two alternatives, under the circumstances in which they are now placed. They must either seek a judicial decision, or abandon their charge altogether. A sense of duty forbids them to take the latter course; the former, therefore, they must adopt. A seizure has already been made of a certain sum in the hands of the Receiver General by one of the creditors of the College, and under this process it is the intention of the Governors to seek for a judicial decision on the points in question. They beg to express their thanks to His Excellency, for his assurance that he will direct that every assistance will be afforded by the Government for that end. Such a proceeding will ensure a speedy decision.

With regard to the allegation that the Executive Government had advised Her Majesty to refuse Her Royal sanction to the Statutes of the College, the Governors were led to this conclusion by the repeated declaration of Lord Metcalfe, in conversation, that he felt assured, the circumstances of the establishment by the Statutes, of a Professorship of Divinity, and the performance of Divine Service in the College, would tend to prevent their sanction by Her Majesty. But as the Governors could not comply with the requirements of the charter without such establishments, they felt that they had no choice in the matter. In the preamble of the charter, it is distinctly declared, that, "being desirous that an University or "College should be established for the education of "youth in the principles of true religion," &c. "We "are willing to comply with the prayer of the said "Petition,"—that is, to grant a Royal Charter for the College, thus making such instruction a condition on which the charter is granted; and in the authority to make Statutes, &c. "the performance of Divine "Service therein," is distinctly stated. The Governors cannot conceive how the instruction of youth "in the principles of true religion" in an University can be provided for without the establishment of a Professorship of Divinity therein; or how provision can be made for "the performance of Divine Service "therein," without embodying such provision in the Statutes.

I have the honor to be,  
Sir,

Your most obedient servant,

(Signed,) JO. ABBOTT,  
Secretary, M'Gill College.

The Honorable D. Daly,  
Provincial Secretary,  
&c. &c. &c.

*Letter from the Provincial Secretary to the Resident  
Governors of M'Gill College.*Secretary's Office,  
Montreal, 30th January, 1846.

Gentlemen,

In reply to your letter of the 16th instant, I have the honor, by command of the Administrator of the Government, to inform you that His Excellency has given the necessary instructions to the Receiver General and to the Attorney General for Lower Canada, to secure the action in behalf of the Crown, contemplated by His Excellency's order in Council, of the 22d ultimo, in regard to your claim upon the funds of M'Gill College at present in the hands of the former Officer, under the operation of the Act 41, George III, c. 17.

I have the honor to be,  
Gentlemen,  
Your most obedient servant,  
(Signed,) D. DALY.

The Resident Governors  
of M'Gill College.

*Letter from the Secretary of M'Gill College to the  
Provincial Secretary, with one enclosure.*M'Gill College,  
February 6th, 1846.

Sir,

I am directed by the Governors of M'Gill College to hand you the enclosed Document, for the information of His Excellency the Administrator of the Government.

I have the honor to be, Sir,  
Your most obedient  
Humble servant,  
(Signed,) JO. ABBOTT.  
Secretary, M'Gill College.

The Honorable Dominick Daly,  
Provincial Secretary,  
&c. &c. &c.

—  
(Enclosure.)

To His Excellency Lieutenant-General the Right Honorable CHARLES MURRAY, Earl CATHCART, in the County of Renfrew, K.C.B., Administrator of the Government of the Province of Canada, and Commander-in-Chief of Her Majesty's Forces in British North America, &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The undersigned, Governors of M'Gill College, resident in Montreal, beg leave respectfully to submit to Your Excellency the following observations on the Report of the Board of the Royal Institution for the advancement of Learning, to Lord Metcalfe, dated 15th November, 1845.

It is stated, in that Report, that £2555 9s. 3d. had already been paid by the late Board of the Royal Institution, "towards the support, and entirely exclusive of the cost of building, of an establishment

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"which had been only two years in partial operation;" and, in the Appendix No. 2, referred to in the margin, they assert that "the Bursar has stated the amount of sums already paid for the support of M'Gill College, (exclusive of the cost of building,) to be £3001 13s." In the same Appendix it is stated, that the aggregate charge in about two years, "for the support of the College, has been £5796 3s. 9½d.," leaving it to be inferred that the annual expenditure for the support alone of the College has been £2878 1s. 10¾d! It is difficult to imagine, by what process of reasoning, or by what system of examination of the statement of the Bursar, the Board of the Royal Institution could possibly arrive at such a conclusion; since in the Bursar's statement, the amount of expenditure for partially completing the buildings, left unfinished by the late Board of the Royal Institution, and for the requisite furniture, before the College could be opened, is distinctly distinguished from the amount incurred for the support of the Institution. From that statement it appears, that the amount of expenditure for the former object has been £2826 4s. 8d., and for the latter £2929 19s. 1½d., making the annual expenditure for the support of the College £1464 19s. 6¾d., now reduced to less than £1100. The idea that the whole amount of expenditure has been incurred for the support of the Institution, appears to have been created in the minds of the present Board, by the Report of the late Board of the Royal Institution, rather than by the statements of the Bursar; and it appears rather extraordinary, that the exposure of the fallacies in that Report (and especially on that very point,) made by the Governors of the College in the month of January, 1845, should have wholly escaped the notice of the present Board.

2. The Board of the Royal Institution assert, that, instead of seeking to retrench the annual Expenditure, the Governors have increased it by adding £50 each to the Salaries of the Bursar and Lecturer in Classical Literature. With the same one-sided view of the case, which has already been noticed, the Board have entirely overlooked the fact, that a reduction in the expenditure had been previously made, on the dismissal of Dr. Lundy, of about £450 per annum; so that after the additional Salaries above stated were granted, the annual expenditure was still reduced by the sum of £350.

3. The Board of the Royal Institution seeking "to reduce the amount of debt due to the same level "with the assets," have recommended that the sum of £629 17s. partly paid to the Principal, and partly claimed by him, should be disallowed. This amount is represented to be made up of two sums, viz.: £562 10s. for Salary, and £67 7s. "retained by him "apparently for his services in collecting the Rents of "Burnside for three years." The recommendation of the Board, to strike out from the list of debts the sum already paid to the Principal, as well as that which is claimed by him for Salary, is predicated on this interpretation of the Resolution of the Governors which establishes that Salary. "A sufficiency of funds, (they say,) is evidently a condition, precedent to the claim of Salary, and that, consequently, such claim could not possibly arise during any portion of a period, in which the expenditure of the College has always been in more than the quadruplicate ratio of its income." The fallacy of the latter portion of this assertion has already been exposed and need not be repeated. The facts of the case are these. When the Governors passed the Resolution relative to the Salary of the Principal and Professor of Divinity, they were not aware of the exact amount of the "Funds derived from the property of M'Gill College" in the hands of the late Board of the Royal Institution.

They had merely been informed by the Board, what was the amount of the annual Income of the property, and as the Salaries of the other officers whom the Governors thought it necessary to appoint, would be not much more than covered by that income, and a sum of £500 which had been granted by a vote of the Legislative Assembly, and which the Governors had been informed by Lord Metcalfe would be paid on the opening of the College, and which they were induced to believe, would be annually granted by the Legislature, it was suggested by the Principal himself, that the payment of his Salary should be made contingent upon the capacity of "the Funds derived from the property of the "College" to make such payment. The intention of the Governors then, was simply to assign a Salary to the Principal and Professor of Divinity from the date of his appointment, as all other Salaries were assigned, but not to be paid, in his case, until the Funds derived from the property of the College would admit of it. So long as the late Board of the Royal Institution limited their remittances to the Governors, from time to time, within an amount, not more than sufficient for the payment of the Salaries of the other Officers of the College, at such times over due, the Principal made no claim for a share of such remittances. But when the whole amount of the debts of the College, including the Salary of the Principal and Professor of Divinity from the date of his appointment, was ascertained to be considerably less than the assets of the College, that Officer claimed his Salary. His claim was allowed, and paid out of the amount remitted to the Governors in January, 1845, by the Board of the Royal Institution. It is true that the amount so remitted was not sufficient to pay the debts, but the Governors were informed that the Board had more than sufficient for that purpose in hand, and were led to believe that the remaining necessary sum, would speedily be placed at their disposal. The Governors, moreover, had at that time strong reasons to induce them to hope, that the management of the Burnside property would speedily come into their hands, and that they would consequently be enabled, in a few months, to increase the revenues of the College to more than quadruple their then amount. Had their first hope, (which was defeated by means which they will not characterize,) been realized, the Governors still think that the second would also have been fulfilled.

When the statements were made by the Bursar, which were referred to in the Report of the present Board of the Royal Institution, it still appeared that there were more than sufficient funds, for the payment of the debts, including the unpaid salary of the Principal and Professor of Divinity, and therefore that salary was claimed. It moreover appeared, that the annual income arising from the property, was more than sufficient to pay all the salaries as now established, and it still appears to be so, even by the statement of the Board themselves, when divested of its fallacies. (See Appendix A.) And if the Board had commenced the sale of lots in June last, as they might have done, and if they had consulted the Governors of the College, as common courtesy should have led them to do, they would have escaped that committal of themselves with the present occupant of the property, which it is to be feared will postpone future sales of lots for some months; the income of the College, from its own property, might now have amounted to £2000 per annum. It may moreover be justly remarked, that of the sum of £629 17s., which the Board have recommended to be disallowed, and struck off, from the list of debts, only £187 10s. is comprehended in that list. The balance of £442 7s. had already been paid by the Governors; any attempt, therefore, to include this last amount

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in the list of debts still due, is an unwarrantable interference with the proceedings of the Governors.

With regard to the sum of £67 7s. the Board say, "they cannot even imagine the color of an argument by which Dr. Bethune's right to claim it can be sustained." This assertion appears rather extraordinary, compared with another statement in their Report, by which it appears that they have "imagined" that the aforesaid sum was retained by him, "apparently for his services in collecting the rents of Burnside for three years." Now supposing that the audited account submitted by Dr. Bethune to the Governors in July, 1843, and approved by them, which the Board have themselves quoted, had apparently to the Board stated this claim to have been made for collecting rents, this should have afforded them a sufficient argument for the claim, because the account was approved by the Governors. But the truth is, that a very little exercise of the reality of that "intense anxiety" to which the Board lay claim, in the examination of this matter, would have led them to the knowledge, that, by a Resolution of the Governors, the Principal of the College was allowed to hold possession of, and enjoy, the property of Burnside, until the College buildings should be finished, and further until the Institution should be brought into actual operation; and that the amount submitted by him to the Governors, when the College was about to be brought into operation, shewed that his nett receipts from the Burnside property, had amounted to the paltry sum of £67 7s. in three years!

4. The Board of the Royal Institution "have arrived at the conclusion, that the Salaries (of the Officers of the College,) present on the whole the least exceptionable object to which the postponement of some payments can be applied, and with the least prejudice to the interests of the College, and with the smallest injury to the rights of individuals," although they express themselves "sensible, that any arrangements which may prevent the Officers from discharging their debts with punctuality must tend to lessen their respectability, and by necessary consequence to impair their powers of being useful in their official capacity." This consequence, it appears to the undersigned, should have led the Members of the Board to the conclusion, that the Salaries presented the most objectionable object to which a postponement of payments could be applied, involving the greatest "prejudice to the interests of the College," and the greatest "injury to the rights of individuals." This view of the case is strongly supported by the consideration, that the amount of Salaries due, is less than one fourth of the whole amount of the debts; that the Salaries are, to each individual Officer, infinitely larger items than the claims of the other creditors are to each of them, consisting, with few exceptions, of small sums, and that the proposed postponement of the payment of two-thirds of the Salaries, deprives each Officer of the enjoyment of two-thirds of his whole means of subsistence; whereas, if the postponement were applied to the other creditors, the amount postponed, to wit, £10 13s. 7½d.; according to the statement of the Board, in Appendix No. 1, would be less than the two-hundredth part, and not of their whole means of subsistence, but in each case of a comparatively trifling debt, which could occasion them no inconvenience, and for which they would even gladly compound if necessary. The postponement of the payment of Salaries to the amount of £440, or two-thirds of £661, does certainly appear to be a most notable expedient for the payment of £10 13s. 7½d! An expedient, it must be confessed, not ill calculated to convert into a reality the "serious apprehension" expressed by the Board, in the concluding paragraph of their Report, that

they "may be deficient in those higher qualifications of talent and ability which so grave and responsible a task imperatively demands." If by any unfortunate circumstance it had happened that the fiscal affairs of this Province required the postponement of payments to any extent, to the creditors of the Government, the undersigned doubt very much whether the Principal of the Royal Institution would have felt, (even if the most "intense anxiety" were brought to the consideration of the subject,) that "the Salaries of its Officers presented the least objectionable object for such postponement, with the smallest injury to the rights of individuals." Unless the venerable Principal can feel a conscientious assurance that such postponement would have been his recommendation, he must admit that he has allowed very little weight, in consideration of the difficulties of McGill College, to the golden rule of doing as we would be done by.

The Board of the Royal Institution have alluded to "the strong opinion which has been expressed by the late members of the Royal Institution of Mr. Abbott's deficiencies as an Accountant;" and, adopting that opinion, they recommend that two Officers of the College should be requested to "examine and report upon the accounts of the College." With regard to "the strong opinion," the undersigned take leave to remark, that it appears to them that the "intense anxiety" to which the members of the Board lay claim, in the consideration of the affairs of the College, should have led them to give, at least, one glance at the reply of the Governors to the expression of that "strong opinion," and that glance might have convinced them that the "strong opinion" in question had no good foundation. It moreover appears to the undersigned rather extraordinary, that the members of the Board should adopt such an opinion without availing themselves of the opportunity of examining the Books of the Bursar, which was offered them by that Officer, but which they declined. Their refusal to examine those Books could not have been occasioned by any feeling of incompetency for the task, because the majority of the members of the Board are Merchants, who are, with one exception, largely engaged in trade. To such men it seems reasonable to believe that a few minutes inspection of the not very extensive Account Books of the College, must have conveyed a correct opinion of the mode in which they have been kept, and of the consequent competency or incompetency of the Bursar for the duties of his Office.

With regard to the recommendation of the Board, that two Officers of the College should be requested to examine and report upon the accounts, it seems unreasonable to suppose, without the slightest imputation upon the talents or capacity of those Officers, that the four Merchants who are members of the Board, must be far more competent to the tasks proposed, than persons who cannot be supposed to have turned their minds, without any particular attention, to the consideration of Books of Account, and whose practice in that way, must be as nothing in comparison with that of the former.

6. Great stress appears to be laid by the Board, in their Report, upon what they are pleased to designate the enormous "mass of debt," compared with the assets of the College, threatening the Institution with "impending ruin;" while their own statements make the deficiency to be only £10 13s. 7½d.,—and they further state, that to liquidate the debts of the College, a large amount of its capital must be employed. It is very remarkable, that in making these statements, the Board should not have distinguished the amount of disposable cash, from the real estate

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which constitutes properly the capital, consisting of the Burnside farm, and a house in the New Market.

The undersigned cannot but strongly express their conviction, that such a statement as that which is contained in Appendix A, would have been much more in accordance with that "intense anxiety" professed by the Board, to bring the financial affairs of the College to a proper adjustment, than seeking by paltry and unfounded insinuations against the Governors, and some of the Officers of the College, to create distrust of their management; and thus to add to those prejudices, raised by the idle tales of a discarded Officer of the College, and perhaps of some suffering individuals, and by newspaper slander, which appear to have influenced the Board of the Royal Institution, in their conclusions, rather than the actual facts of the case under their consideration.

The undersigned cannot but admire the coolness with which the Board of the Royal Institution endeavour to palm upon the Principal of the College, the payment of nearly the whole of the amount borrowed by three of the Governors, on their individual responsibility, for the use of the College, under the pretence that that officer was not entitled to his salary, as if he alone was unworthy of remuneration for his services; although they could not but know that it was by the influence of his personal responsibility, for indispensable incidental expenses, that the College was kept in operation for more than a year, and it may be added, that it is by the same influence in supplying the like items of expenditure, that the College is now kept in operation. The credit of the College has been entirely destroyed by the withholding its pecuniary resources, and, consequently, without personal responsibility, credit cannot be obtained for one shilling. But even on the supposition that the Board of the Royal Institution were convinced, on what they conceived to be sufficient grounds, that the Principal and Professor of Divinity was not entitled to his salary, there can be no want of charity, in saying, that a gentleman who had occupied a high

judicial office, should have felt the impropriety of acting at once in the incompatible capacities of accuser and judge, or of endeavouring to enforce the repayment of money without judgment in the case being previously obtained in a legal way. If the Board felt convinced that money had been obtained by the Principal, without right or authority, their obvious course would have been, to seek for the refunding of that money by a judicial decision, rather than by a process so utterly unworthy, that the undersigned cannot blot this page with the name it deserves.

8. The undersigned do not feel themselves called upon to make any other observations on the sneering remarks of the Board, relative to the number of students in the College, (which is even understated,) than simply to refer them to the statements which the undersigned have already made on the same subject, and which are printed as constituting part of the evidence submitted to a Committee of the Legislative Assembly, in the month of February last.

In conclusion, the undersigned feel it to be their duty to remark, that in the Report of the Board of the Royal Institution, there is a strain of imputation upon the character of the Governors of the College, and of invective, and an assumption of authority over their proceedings, which, if sustained as the legal and due exercise of the functions of that Board, must effectually prevent any man who has any feeling of self-respect, from acting in the office of a Governor of that Institution.

We have the honor to be,  
Your Excellency's most obedient  
humble Servants,

(Signed,) VALLIERES DE ST. REAL,  
Chief Justice of Montreal.  
" JOHN BETHUNE, D. D.  
Principal, McGill College.

Montreal, February 6th, 1846.

## APPENDIX A.

	£	s.	d.
Assets of the College, as stated by the Board of the R. I. in their Report dated 15th November, 1845			
Montreal Bank Stock ... ..	912	0	0
Deposits in Banks ... ..	1191	9	8
Rente Constituée due by Mr. Cu villier ... ..	48	0	0
Rent due on house in New Market ... ..	62	10	0
Arrears of rent for Burnside ... ..	175	0	0
	£2388	19	8
The deduction of £100 from this sum in the Statement of the Board, for defraying the expenses of two auctions, cannot be allowed, because £3 were paid by the purchaser of each lot towards the defraying these expenses.			
To the above Statement may be added an amount which may be easily realized by the sale of £129, Rentes Constituées, say ... ..	1500	0	0
Total amount of assets without touching the capital, consisting of landed property ... ..	£3888	19	8
Amount of the debts of the College, including all salaries due 1st October, 1845 ... ..	2754	10	9½
Surplus of assets after paying debts ... ..	£1134	8	10½

## Statement of the Annual Income and Annual Expenditure of the College on its present Establishment.

	£	s.	d.
Income from Real Estate, in round numbers ... ..	732	0	0
If the above balance of £1134 be divided by three, there may be thus added to the annual income for 3 years	378	0	0
	£1110	0	0
EXPENDITURE.			
For salaries, in round numbers ... ..	£915	0	0
For contingencies... ..	173	0	0
	1088	0	0
Balance ... ..	£22	0	0



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From this Statement it appears there are sufficient means for carrying on the College on its present establishment for three years, without reckoning the progressive increase of income during that period from sales of lots, when it is not unreasonable to suppose the whole of the property now laid out in building lots, may easily be disposed of,—which, reckoning according to the average prices already obtained, should yield an annual income of nearly £3000.

*Letter from the Provincial Secretary to the Trustees of the Board of Royal Institution.*

Secretary's Office,  
Montreal, 21st February, 1846.

Gentlemen,

I have it in command from the Administrator of the Government, to transmit to you the accompanying Memorial from the Resident Governors of M'Gill College, for any remarks which you may be disposed to offer upon the subject to which it relates.

I have the honor to be,  
Gentlemen,  
Your most obedient Servant,  
(Signed,) D. DALY.

The Trustees of the Board  
of the Royal Institution.

*Letter from the President of the Royal Institution to the Provincial Secretary, with one Enclosure.*

Montreal, 16th March, 1846.

Sir,

The Members of the Board of the Royal Institution for the advancement of Learning have requested me to offer, through you, their respectful acknowledgments to His Excellency the Administrator of the Government, for having favored them, spontaneously, with the perusal of the Memorial of the two Resident Governors of M'Gill College, to His Excellency, dated on the 6th ultimo; and to submit the accompanying answers to the principal observations contained in that document, on the Report of this Board of the 15th of November last, to His Lordship's impartial consideration.

I have the honor to be,  
Sir,  
Your most obedient Servant,  
(Signed,) R. A. TUCKER,  
President of the Royal Institution.

The Hon. Dominick Daly, Esq.  
Provincial Secretary,  
&c. &c. &c.

(Enclosure.)

Answers of the Members of the Board of Royal Institution for the advancement of Learning, to certain observations on their Report of the 15th November, 1845, contained in a Memorial from the two

Resident Governors of M'Gill College, to His Excellency the Administrator of the Government, dated 6th February, 1846.

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1. The force of this observation depends wholly upon the true meaning of the word "support," when applied to an expenditure incurred upon a College, viz.: whether money laid out in the purchase of "furniture" for it can properly be comprehended under that term. Without entering into any hypercritical discussion upon this point, it will be sufficient to remark, that the Members of the Board of Royal Institution, in stating a particular sum to have been expended "exclusive of the cost of building," must evidently have intended to include in that sum every item of charge except the price of the building; and that, consequently no misconception whatever could possibly arise from the use of the word "support." Nor is there any reason, as the two Resident Governors have asserted, to believe that the Members meant it to be inferred, that the annual expenditure had been just half of the amount stated in their Report to have been incurred in about two years. To have distributed that sum into several portions corresponding to certain definite periods, would have been impossible with the means of information they possessed; and would have answered very little purpose if they could have accomplished it. Called on by the Executive to investigate accounts, presented under the three heads of "salaries," "furniture," and "charges," in none of which had they the least idea that any "building account" was comprehended—their object was to ascertain what the actual amount of expenditure had been, including furniture and every other charge, (the cost of building alone excepted,) from the time that the College had been in partial operation; and the result of their labors produced a conviction on their minds, that for a period (about 2 years) in which the nett revenue of the College had not amounted to £1200, the sums paid, and the debts due amounted to £5796 2s. 3d.—in other words, that the expenditure had been much more than four times the amount of the Income.

2. Whether any reduction of expense will result from the supersession of Mr. Lundy by the two Resident Governors will depend on the issue of the legal proceedings which have been instituted to test the validity of his amotion from office; and upon the arrangement which may hereafter be made in regard to the appointment of Professor of Classical Literature. In the meanwhile it appeared to be a sufficient argument against any increase, however small, to other salaries, "that the existing funds of the College were not adequate to pay them at the old rates."

3. That under the terms of the Resolution by which a Salary was granted to the Principal, being Professor of Divinity, a sufficiency of Funds was made a condition precedent to the commencement of the Salary, can scarcely be doubted by any one; nor has the opinion of the Members of the Board of Royal Institution upon that point been altered by the explanatory observations of the two Resident Governors. They continue to think, as they have stated in their Report, "that the time has not yet arrived when that Salary can be claimed." With respect to the argument that has been urged against

Substance of the first observation of the two Resident Governors. That the word "support" is incorrectly used in the Report of the 15th November, 1845, and was employed therein in order to lead to a false inference.

2nd Observation. That the Board of Royal Institution in objecting to the increase of the Salaries of two of the Officers of the College have unfairly kept out of sight the reduction of expense consequent on Mr. Lundy's dismissal.

3rd Observation. That the Principal is entitled to retain the sum of £562 10s. charged for his Salary. First, because the Resolutions of the Governors granting it did not render a sufficiency of Funds a condition precedent to its commencement."



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the refund of the part of that Salary that has already been paid, the fact is, that such payment was made out of monies advanced by the late Board of Royal Institution to the Bursar, specifically towards the liquidation of a number of debts exhibited in a Schedule, in which no charge was contained for the Salary of the Principal. How far, therefore, it would have been competent to two Governors to authorize the application of a part of that money to a purpose different from that for which it was imprest to the Bursar, is a matter not necessary to be decided in this case, since one of the two Resident Governors was wholly disqualified from acting where his own interest was directly concerned. That payment then having been manifestly made, not only contrary to the intentions of the late Board, but also without proper authority from the Governors of the College, the Members of the present Board felt it to be their duty to recommend its disallowance.

After contending strenuously against the proposition "that a sufficiency of Funds constitutes a condition precedent to the commencement of "the Principal's Salary," the Governors appear to be disposed to waive that point, and to join issue on "a sufficiency of Funds." Now since the existing liabilities of the College would more than absorb every farthing of money belonging to it, the application of all its money Funds towards the satisfaction of its debts would leave a part of them still unpaid; and the whole of its present annual revenue would, in that case, be composed of—

1st, Rent from Mr. Mack of a house in the New Market, ...	£250 0 0
2nd, Rente Constituée payable by Mr. Cuvillier, ...	96 0 0
3rd, " " by Mr. Gillespie,	33 0 0
4th, Rente Foncière on 18 Lots sold in September, 1845, ...	272 8 0
5th, " " 14 Lots sold in October, 1845, ...	210 0 0
	£861 8 0

Deduct annual amount of Insurance, 45 6 0

Making a certain Income of only, £816 2 0

And since the two Resident Governors state the sum required for the annual support of the College, in its reduced establishment, to be, ... 1080 0 0

There would, under their own statement, be a deficiency of funds amounting to, ... £263 18 0  
To which a litigated claim to annual rent of £100 for the rent of Burnside is the only offset. So that if the question is made to rest upon a present sufficiency of funds, the claim of the Principal to his Salary clearly cannot be maintained.

It should not, however, be lost sight of, that no portion of the revenue to be derived from Rentes Foncières will begin to accrue until October, 1845; and, consequently, that, if the amount of that Rente had been large enough to raise the income of the College to the level of its expenditure, the Salary of the Principal could, even then, only commence with the Rente, i. e. in October, 1845; a period long subsequent to the time for which it has been charged by Dr. Bethune.

But the two Resident Governors, probably aware that the ground of the argument last assumed by them was not altogether tenable, proceed to observe, "if the Board had commenced the sale of lots in June last, as they might have done, and if they had consulted the Governors of the College, as common courtesy should have led them to do, they would have escaped that committal of themselves with the present occupant of the property which, it is to be feared, will postpone future sales of Lots for some months. The income of the College, from its own property, might now have amounted to £2000 per annum." In this paragraph the Members of the Board of Royal Institution are charged:—

1st. With a neglect of duty in not selling some of the Burnside Property in June, 1845.

2dly. With a want of courtesy in not consulting the Governors of the College respecting such sale.

3rdly. With having committed themselves with the present occupant of a part of the Burnside property.

To the first it may be replied, that it charges, as a fault against the members, the not doing that which it was absolutely impossible for them to do: their first meeting having been appointed by Letters Patent, to take place in June, 1845, and the Statute empowering them to sell the land enjoining that a month's notice, at the least, should be given of the time and place of sale.

Not disposed, however, to screen themselves from this charge, merely by exposing its absurdity in a literal point of view, the members of this Board are willing to meet it according to its widest scope; and they trust that the following plain statement of facts will completely absolve them from the imputation of "laches" in the performance of that which they have always regarded a very important branch of their duty.

On the 5th June, 1845, the members of the present Board of the Royal Institution first entered on the execution of their official functions; and at their meeting, on that very day, it was Resolved, "That a Committee be appointed to consider and report on the best mode of giving effect to the intention of the Legislature, as expressed in the 8th Victoria, c. 78; and also to report upon the nature of Mr. Joshua Pelton's claim; and that the Hon. P. McGill, J. Ferrier, and R. Armour, Esquires, do form the said Committee."

To the interest thus evinced by the Board on this subject, their Committee responded in a spirit of similar zeal; and under their suggestions, and in accordance with their judicious arrangements, thirty-two lots were sold in September and October following, on terms exceeding the expectations, as it is confidently believed, of almost every one. Under the plan of the second sale it had been contemplated to expose a much larger number of lots to auction; but the state of the market not seeming to admit of the sale of more than fourteen, without a great reduction of price, it was deemed advisable to stop there, and to try another experiment in the spring of 1846. Such are the facts; and the members of this Board have no other wish than that their conduct should be fairly judged by them.

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To the complaint of the two Resident Governors of a want of courtesy towards them on the part of the Board, in not consulting them respecting the sale, the members can with the utmost truth and sincerity declare, that no discourtesy was intended to be shewn to the Resident Governors; and that they would most readily have consulted them, if any motive, either of benefit to the College, or of necessary compliment to the two Resident Governors, had suggested itself to their minds.

In adverting to the third and last division of this charge, the members of this Board cannot but express some astonishment at the nature of it, and still more at the quarter from whence it has proceeded. They confess, too, that they feel much regret at being thus forced to enter upon a detail of the circumstances connected with it. As far, however, as regards their own share in those transactions, they will ever be ready to submit it to the most rigorous investigation, "*volet hæc sub luce videri.*"

Under an arrangement originating with Dr. Bethune, and, in some measure, sanctioned by the late Board of the Royal Institution, Mr. Joshua Pelton was the only bidder, on the 28th April, 1842, at public auction, for a lease of the east part of the Burnside property, for a term of ninety-nine years. Two days before the time of the intended sale, some legal difficulties to the execution of Dr. Bethune's plan occurred to Mr. Griffin, the Law Agent to the Board, which he instantly communicated to Dr. Bethune, as well as the Board, accompanying his communication to the former with a suggestion, that the sale should be postponed until the point should have been finally settled. In disregard of this seemingly judicious advice, the sale was permitted to take place; and the late Board, considering themselves somewhat as parties to it, were willing to do every thing in their power to confirm Mr. Pelton's title; and, with that view, successively adopted two Resolutions, which, on examination, were found to be obnoxious to as strong legal objections as Dr. Bethune's first proposition. The attempt to sustain the sale of the 28th April, 1842, having thus proved altogether abortive, Mr. Pelton appears to have been given the possession of the property by Dr. Bethune, under a new agreement, for a lease of twenty-one years, at a reduced rate of rent. In this state Mr. Pelton's case continued from 1842, to June, 1845, when the present members of the Board succeeded to office: and being, like their predecessors, disposed to satisfy, as far as their powers would allow, any reasonable claims he might have, either in law or equity, they requested Mr. Griffin, who was conversant with every part of the subject, to furnish them with a statement of all the material facts belonging to it; and also to favor them with his own opinion of the true merits of this embarrassing case.

From Mr. Griffin's reply the members were induced to think, that Mr. Pelton's claims were indeed, very small; and to agree with Mr. Griffin that, such as they were, they were rather against Dr. Bethune than the Royal Institution. Still desirous of regarding the acts of Dr. Bethune as those of an accredited agent, and not of a private individual, and anxious to recover the possession of the property without the inconvenience and delay of an action at law, the members were inclined to remit the two years rent (£200,) which would become due on the 1st of May next, on condition of their obtaining a quiet delivery of the premises from Mr. Pelton, so as to enable them to sell a portion thereof about that time. The extravagant pretensions to indemnity

advanced by Mr. Pelton precluding, however, in the judgment of the members, all chance of an amicable adjustment of this question, and a recourse to legal proceedings appearing, in consequence, to be inevitable, a letter was received, on the 4th November, 1845, from Dr. Bethune, in which that gentleman, after some preliminary observations, says, "I therefore employed Mr. Pelton to purchase the property for me, and he did so on the perfect understanding, that the property should, in the first instance, be conveyed to him, and afterwards by him to me, as he supposed—but really to the Governors, Principal, and Professors of McGill College."

Deeming this declaration altogether decisive against Mr. Pelton's pretensions, and not supposing that he would venture to contravene a statement coming from such a source, the members of the Board promptly transmitted a copy of Dr. Bethune's letter to Mr. Pelton, with an intimation that they would require the possession of the premises to be surrendered by him on the 1st of May, 1846, without the remission of a single farthing of rent. Instead, however, of yielding to this demand, Mr. Pelton treated Dr. Bethune's statement with the highest contempt, and asserted a "determination to maintain his position, and to employ every legal means in order to obtain his just rights." In spite, therefore, of all their efforts to prevent it, a resort to a lawsuit became unavoidable: and in order to secure the services of the most distinguished members of the profession, and also to lessen the expense of litigation, the members of the Board solicited from His Excellency the Administrator of the Government, the assistance of the High Law Officers of the Crown; and their request having been graciously acceded to by His Lordship, the case is now in the hands of Mr. Smith, the Attorney General for Canada East.

Having thus given a faithful outline of all the material facts of the case, the members of this Board will leave it, without any comment by them, to the two Resident Governors to shew how the members have "committed themselves with the present occupant of the property;" and to Dr. Bethune, individually, to explain why, with a perfect knowledge of the manner in which the late and present Board have been harassed by Mr. Pelton's claims since the summer of 1842, he should have deferred till November, 1845, making a disclosure which might long since have put these claims for ever at rest.

4. The distinction between "apparent" and "real" is so strongly marked in the familiar expressions of "apparent time" and "real time," that scarcely any one can be supposed to be ignorant of it; and it does, therefore, appear strange, that the two Resident Governors should conceive, that a contradiction is necessarily involved in the assertion, that it is impossible "to imagine the color of an argument" (i. e., of course, a real argument) in favor of the retention of a sum of money which has "apparently" been claimed under a particular pretext. If an English gentleman should write from Washington, "The Americans are 'apparently' going to war with us about Oregon; but, after listening attentively to the debates in both Houses of Congress upon the question, I cannot discover in any of the speeches,—nor am I able even to 'imagine' the color of an argument to justify them in doing so;" it would be perfectly obvious that he meant to put a real, substantial argument in contradistinction to an assigned motive, or plausible

Fourth Observation. That the members of the Board have been guilty of an absurd contradiction in their statement respecting Dr. Bethune's claim to the sum of £67 7s. retained by him out of the rents of Burnside; and that the circumstances of the case fully entitle Dr. Bethune to keep it.

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pretext, void of any solid foundation; and probably no one would be disposed to carp at a form of expression very forcibly illustrating the sentiments of the writer. But passing by this verbal criticism, and turning to the subject which elicited it, viz., Dr. Bethune's right to the sum of £67 7s. "apparently claimed by him for his services in collecting the "rents of Burnside for three years,"—the only document produced in support of that claim was an account in which Dr. Bethune charges himself with three years rent of Burnside:—

	£	s.	d.
From 1841 to '43	225	0	0
And acquits himself of that charge:—			
1st. By a balance stated to be due to him,	40	0	0
2nd. By expenses of three journeys on	21	10	0
affairs of the College			
3rd, By disbursements for repairs,	96	3	0
insurance, &c.			
4th. By balance received by Princi-	67	7	0
pal 3½ yrs., average £19 4s. 10½d.			
	225	0	0

Now, in looking at that account, it does still seem difficult to imagine the color of an argument by which Dr. Bethune would be entitled to retain the £67 7s. Certainly no owner of an estate would be well pleased with such a statement of its proceeds for three years. But in their objection to that charge, the members of the present Board were fortified by the example of their predecessors, who had always held Dr. Bethune accountable for the rents of Burnside, and had repeatedly called on him—though in vain—through the Bursar, to exhibit an account of them. Indeed, in their report, the members of the present Board tacitly admitted the item of £40, claimed by Dr. Bethune as a balance; although his right to it had to the last been positively denied by the late Board; and, wishing to make their view of the affairs of the College as little retrospective as the duty they had been requested to perform would allow, the members of the present Board not only yielded the point respecting the contested balance, but also abstained from noticing several other points in Dr. Bethune's statements of the Burnside Rents, upon which they would have been fully warranted in asking for explanations; as the following copy of those statements will show:

STATEMENTS of Rent received by Dr. Bethune for Burnside.

	£	s.	d.
In one Statement.	1841, to May, rent to this date	80	0 0
	1842, do do do	80	0 0
	1843, do do do	65	0 0
In second Statement.	1843, to November, nett quarter's rent	17	2 4
	(year omitted) 1st February	16	15 0
	do do ) 1st May	18	12 1
		£277	9 5

Supposing, therefore, the three last articles to refer to the year from 30th April, 1843, to 1st May, 1844, Dr. Bethune seems only to have debited himself with rent for three quarters of a year, amounting to £52 9s. 5d., whereas Mr. Pelton asserts, that he paid Dr. Bethune £100 rent, for the year ending 1st May, 1844; and he also states, that he paid for the previous year,—instead of the £65 credited by Dr. Bethune—the sum of £80, "over and above the fruit, and half of the grass, which were enjoyed by Dr. Bethune." These discrepancies in the sums may, possibly, be reconciled by the hypothesis, that Mr. Pelton is speaking of gross, and Dr. Bethune, of nett sums; but, even then, the Quarter's Rent from May to August, 1843, will seem to have been lost to the College. At any rate, the forbearance on the part of the Board to investigate those matters—

to whatever other grounds of censure it may justly expose them,—must abundantly prove, that their conduct has not been influenced by any captious or hostile spirit towards Dr. Bethune.

5. In the accounts laid before them, the members of this Board observed, that costs had already been incurred in actions brought by some of the creditors of the College against the Governors; and from the long standing of many of the debts, there was every reason to apprehend, that a further delay in their liquidation would be followed by a large increase of law suits; adding materially to an already insupportable weight of pecuniary difficulties. Since, therefore, the entire appropriation of the money funds of the College would not suffice to discharge its existing debts—to pay the whole of the salaries of its officers, then nine months in arrear, and to provide for its essential wants on the 1st January, 1846, it was evident that all of those objects could not be fully attained; and, after a serious, and even painful consideration of the subject, the members of this Board expressed the opinion which has been so severely animadverted upon by the two Resident Governors.

6. It is perfectly true, that the strongly expressed opinion of the members of the late Board, respecting the unsatisfactory state of the College accounts, had much weight with the present members; but the estimate formed by them of Mr. Abbott's deficiencies as an Accountant, by no means rested solely on that foundation. The inaccuracies in the accounts furnished by him; and, above all, the fact, that the debt of the College, which had been officially stated, in a document presented to the Governor General, to be only £2177 8s. 10d. had, first, been increased, by corrections, to £2311 14s. 4d., and afterwards swelled to £2754 10s. 9½d., must, in the absence of all other argument, have thrown some doubt on Mr. Abbott's qualifications as an Accountant. With reference to the other observations of the two Resident Governors on this branch of the Report of the 15th of November 1845, it may be remarked, as somewhat extraordinary, that whilst those gentlemen insist so stoutly and tenaciously on Mr. Abbott's arithmetical powers, they should think so lightly of those of Mr. Wickes and Mr. Chapman. In this particular, the Professor of Mathematics might at any rate, be supposed to be on a footing of equality with Mr. Abbott; and the more so, as Mr. Wickes would have carried to the examination of the accounts of the College the great advantage of having acted as its Bursar.

7. By his Will, the late Mr. James McGill left an Estate, and the sum of £10,000 for the erection and support of an University; and before the £10,000 were paid, they had been augmented by accruing interest to £22,000. Of this sum £9,251 6s. 10d. were expended by the late Board in building the College; £10,200 vested in landed property; a part employed in the purchase of Harbor Debentures, and shares in the stock of the Bank of Montreal; and the remainder was in the hands of Mr. Redpath at interest. According then to the conception of most men, the "capital" of McGill College consisted of certain landed property, and of a sum of money yielding an annual income, applicable to the annual support of the College. Unhappily, however, the members of the late Board

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felt themselves under a necessity of sacrificing, in January, 1845, £1,500 of that capital towards the payment of the College debts; thereby reducing the annual income by £90: and when the present members of the Board succeeded to office, the money portion of the capital of the College was reduced to £1000 due by Mr. Redpath, and to 20 shares in the stock of the Bank of Montreal. In recommending, therefore, that both those sums should be applied towards the satisfaction of the existing debts of the College, they certainly did believe that the proposition involved a diminution of its capital to the extent of their combined amount. Should a nobleman, deriving £10,000 a year from a landed estate, and £5,000 from funded property, be obliged to part with £50,000 of the latter for the payment of his debts, he would, doubtless, be said to have sunk £50,000 of his capital; and between such a case and the present, the members of this Board confess themselves unable to distinguish. The argument, indeed, of the two Resident Governors, "if trusted home," would deprive even a part of the landed estate of the character of "capital;" since the money by which it was acquired was a part of the identical sum from which the Bank Stock and the other £1000 were derived. In fact, the two Resident Governors contend, in the Appendix A. to their letter of the 6th ultimo, that the £129 of annual Rentes Constituées might be sold for £1500, and that sum applied, under what they are pleased to designate "disposable cash," to the support of the College, without at all trenching on its "capital." From which doctrine the members of this Board think it only necessary to express their entire dissent.

8. To the concluding observation of the two Resident Governors, the members of this Board might safely venture to oppose the strong approbation of their "Report" by Lord Metcalfe, conveyed in a letter to them of the 21st of November, 1845, from Mr. Secretary Daly: but against the charge of indulging "in invective, and of an assumption of authority over the proceedings of the Governors," they prefer defending themselves by a simple reference to the whole tenor of their conduct since their succession to office.

With feelings of sincere respect for their predecessors, and with a high sense of the abilities and legal attainments of the eminent Counsel by whose professional advice the members of the late Board have been guided, the present members, at the very commencement of their career, by a construction of the 41st Geo. III., cap. 17, essentially different from that which had previously prevailed, at once relin-

quished that claim to a control over the appropriation of the funds of the College, which had proved the prolific parent of controversy between the two Corporations: and having thus, as they thought, entirely surrendered "the apple of discord," they hoped that nothing would occur to interrupt that harmony which they were desirous to maintain with the Governors of the College. Actuated by this love of peace, and by an aversion from every thing like the usurpation of power, the members of this Board, upon being asked by the Head of the Government for their opinion on an application which had been addressed to him by the two Resident Governors, for the transfer to them of all the monies which then were, or, thereafter might be, in the hands of the Receiver General on account of McGill College, whilst they assured His Excellency that "it would ever afford them the purest gratification if their services could be made conducive to the promotion of the true interests of the College," did not hesitate to accompany that assurance with an expression of "their anxious wish strictly to confine their sphere of action within what they deem its legitimate limits—viz., the management of the estates of the College, and their visitatorial duties." And certainly, if there was one task which more than any other they were solicitous to decline, it was an investigation into the affairs of the College under the anomalous circumstances in which that Institution is placed. But this was a desire they were not permitted to gratify: for, on being afterwards called on by the Governor General for their opinion, and advice, respecting the debts of the College, and the means of liquidating them, they did not consider themselves at liberty to refuse this unenviable office; and accordingly entered upon it with great reluctance, but with a determination not to shrink from the faithful performance of it through an unmanly dread of the obloquy to which they might thereby expose themselves. The result of their labors is contained in their Report of the 15th November, 1845; and they confidently trust, that neither in that document, nor in any other part of their official transactions, can any instance be found of the slightest departure from that comity which all public bodies are bound, even under the excitement of warm controversies, ever strictly to observe towards each other.

In the name and on the behalf of the Royal Institution for the advancement of Learning,

(Signed,) R. A. TUCKER,  
President.

Montreal, 16th March, 1846.

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## REPORT.

THE SELECT COMMITTEE to which was referred the Petition of James Ferrier, Esquire, Mayor, and others, Members of the Municipal Council of the City of Montreal, praying that an Act may be passed declaring the proceedings with regard to the Election of Mayor for the present year (1846) null and void, and empowering the said Council to proceed to another Election of Mayor at the earliest possible period, —have the honor to REPORT :—

That they have considered the Petition referred to them, and after taking evidence in relation thereto, which is appended to this Report, they have adopted the following Resolutions, which they respectfully submit for the consideration of your Honorable House :—

*Resolved*, That doubts having arisen as to the legality of the proceedings had at the Quarterly Meeting of the Council of the Corporation of the City of Montreal, held on the 9th, 10th, and 11th of the month of March last, for the Election of a Mayor of the said City ; and the Election of James Ferrier, Esquire, as such Mayor, made at the said Meeting, having been questioned by John Easton Mills, Esquire, a Councillor of the said City of Montreal ; and the rule obtained on the application made by the said John Easton Mills to the Court of Queen's Bench for an information in the nature of a *Quo warranto*, against the said James Ferrier, having been discharged by the said Court, on the ground of its having no civil jurisdiction in the matter ; it is, in the opinion of this Committee, expedient to give power to the said Court of Queen's Bench to hear and try questions of this nature, in Term or Vacation, making the proceedings as summary as possible.

*Resolved*, That it is expedient to provide, that at all Meetings of the said Council of the City of Montreal for the Election of a Mayor of the said City, every Member of the Council shall have a right to vote as such Member ; that at such Elections the City Clerk shall preside, or in case there be no City Clerk, a Chairman for the occasion shall be appointed, who shall have a vote as a Member, but not a casting or double vote.

And your Committee recommend that a Bill be passed by Your Honorable House, in accordance with the foregoing Resolutions.

All which is respectfully submitted.

G. MOFFATT,  
*Chairman.*

5th May, 1846.

## MINUTES OF EVIDENCE.

The Honorable GEORGE MOFFATT in the Chair.

*Monday, 27th April, 1846.*

J. P. Sexton, Esquire, City Clerk of Montreal, called in ; and examined :—

1. Have you a copy of the proceedings at the last Quarterly Meeting of the City Council, and if so, produce it?—I have ; and now produce the same. (Appendix No. 1.)

2. Have you a copy of the Judgment pronounced by the Court of Queen's Bench in the matter of the *Quo warranto*, and if so, produce it?—It is being prepared, and I will hand it to the Committee as soon as I receive it from the Prothonotary's Office. (Appendix No. 2.)

*Wednesday, 29th April, 1846.*

J. P. Sexton, Esquire, again called in ; and examined :—

3. In consequence of the conflicting pretensions for the office of Mayor, have any, and what number of Members withdrawn from the Council?—Nine Members have so withdrawn, viz. : Messrs. Mills, Bourret, Jodoin, Perrin, Tully, Dorwin, Beaubien, Ward, and Dufresne.

4. During the secession of these Members, can By-Laws be passed for the good rule, peace, welfare, or improvement of the City?—No, they cannot ; inasmuch as by the 15th Section of the Act, 8 Vic., cap. 59, it is provided that no By-Law can be passed by the Council unless two-thirds of its Members are present.

5. Has the credit of the City been affected, and in what manner, by the doubts entertained respecting the Mayoralty?—It has been injuriously affected by the doubts referred to in the question.

6. Have citizens, in consequence, refused to pay the assessments and taxes due by them?—They have, in many instances, as I have been informed by the City Treasurer.

7. Was not the Police Force left for some time unpaid?—It was.

8. Did they not, in consequence, decline going on duty?—They did.

9. Have not the butchers declined paying the rent of their stalls?—I am so assured by the City Treasurer.

10. Are not the officers and servants of the Council unpaid?—They are.















